

SB0128S02 compared with SB0128S01

~~text~~ shows text that was in SB0128S01 but was deleted in SB0128S02.

text shows text that was not in SB0128S01 but was inserted into SB0128S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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:

~~None~~ This bill provides a coordination clause.

Utah Code Sections Affected:

SB0128S02 compared with SB0128S01

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
- 35A-8-410**, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 53C-2-301**, as last amended by Laws of Utah 2020, Chapter 123
- 63M-7-510**, as last amended by Laws of Utah 2020, Chapter 149
- 73-2-27**, as last amended by Laws of Utah 2023, Chapters 111, 179
- 76-5-111.4**, as enacted by Laws of Utah 2022, Chapter 181
- 76-6-102**, as last amended by Laws of Utah 2023, Chapter 111
- 76-6-104**, as last amended by Laws of Utah 2023, Chapter 111
- 76-6-104.5**, as last amended by Laws of Utah 2023, Chapter 111
- 76-6-106**, as last amended by Laws of Utah 2023, Chapters 111, 179 and 330
- 76-6-106.1**, as enacted by Laws of Utah 2023, Chapter 111
- 76-6-107**, as last amended by Laws of Utah 2023, Chapter 111
- 76-6-404**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 76-6-404.5**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 76-6-404.7**, as last amended by Laws of Utah 2023, Chapter 111
- 76-6-405**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 76-6-407**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 76-6-408**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 76-6-409**, as last amended by Laws of Utah 2023, Chapter 111

SB0128S02 compared with SB0128S01

76-6-409.3, as last amended by Laws of Utah 2023, Chapter 111
76-6-409.6, as last amended by Laws of Utah 2023, Chapter 111
76-6-410, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-413, as last amended by Laws of Utah 2023, Chapter 111
76-6-505, as last amended by Laws of Utah 2023, Chapter 111
76-6-506.2, as last amended by Laws of Utah 2023, Chapter 111
76-6-506.6, as last amended by Laws of Utah 2023, Chapter 111
76-6-506.8, as enacted by Laws of Utah 2023, Chapter 111
76-6-506.9, as enacted by Laws of Utah 2023, Chapter 111
76-6-513, as last amended by Laws of Utah 2023, Chapter 111
76-6-518, as last amended by Laws of Utah 2023, Chapter 111
76-6-521, as last amended by Laws of Utah 2023, Chapter 111
76-6-602, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-608, as last amended by Laws of Utah 2023, Chapter 111
76-6-703, as last amended by Laws of Utah 2023, Chapter 111
76-6-703.3, as enacted by Laws of Utah 2023, Chapter 111
76-6-801, as last amended by Laws of Utah 2023, Chapter 111
76-6-803, as last amended by Laws of Utah 2023, Chapter 111
76-6-803.30, as last amended by Laws of Utah 2023, Chapter 111
76-6-902, as last amended by Laws of Utah 2023, Chapter 111
76-6-902.1, as enacted by Laws of Utah 2023, Chapter 111
76-6-902.2, as enacted by Laws of Utah 2023, Chapter 111
76-6-1002, as last amended by Laws of Utah 2023, Chapter 111
76-6-1102, as last amended by Laws of Utah 2023, Chapter 111
76-6-1203, as last amended by Laws of Utah 2023, Chapter 111
76-8-103, as last amended by Laws of Utah 1998, Chapter 92
76-8-105, as repealed and reenacted by Laws of Utah 1998, Chapter 92
76-8-402, as last amended by Laws of Utah 2020, Chapter 61
76-8-1206, as last amended by Laws of Utah 2012, Chapter 41

SB0128S02 compared with SB0128S01

76-8-1301, as last amended by Laws of Utah 2010, Chapter 193

76-10-1801, as last amended by Laws of Utah 2010, Chapter 193

77-18-105, as last amended by Laws of Utah 2023, Chapters 111, 257

ENACTS:

76-1-107.5, Utah Code Annotated 1953

76-6-401.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

office and is guilty of:

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

(2) a felony of the third degree if:

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

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

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

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

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

26B-3-1108. Criminal penalties.

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

Notice.

(1) As used in this section:

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

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

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

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

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

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

Chapter 3, Utah Occupational Disease Act:

(i) workers' compensation insurance coverage;

(ii) disability compensation;

(iii) a medical benefit;

(iv) a good;

(v) a professional service;

(vi) a fee for a professional service; or

(vii) anything of value.

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

(i) make or cause to be made a false written or oral statement with the intent to obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act, at a rate that does not reflect the risk, industry, employer, or class code actually covered by the insurance coverage;

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

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

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

(C) deprive an employee of workers' compensation coverage as required by Subsection 34A-2-103(8);

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

(A) an independent contractor;

(B) a sole proprietor;

(C) an owner;

(D) a partner;

(E) an officer; or

(F) a member in a limited liability company;

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

(ii) A person is guilty of:

(A) a class A misdemeanor:

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

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

(B) a third degree felony:

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

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

(C) a second degree felony:

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

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

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

(a) reliance on the part of a person;

SB0128S02 compared with SB0128S01

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

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

(5) (a) An insurer or self-insured employer who, in connection with this chapter or Chapter 3, Utah Occupational Disease Act, prints, reproduces, or furnishes a form described in Subsection (5)(b) shall cause to be printed or displayed in comparative prominence with other content on the form the statement: "Any person who knowingly presents false or fraudulent underwriting information, files or causes to be filed a false or fraudulent claim for disability compensation or medical benefits, or submits a false or fraudulent report or billing for health care fees or other professional services is guilty of a crime and may be subject to fines and confinement in state prison."

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

(i) applies for insurance coverage;

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

(iii) reports payroll;

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

or

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

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

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

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

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

SB0128S02 compared with SB0128S01

(ii) grounds for suppressing evidence.

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

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

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

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

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

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

- (a) change in household composition;
- (b) employment change;
- (c) change in marital status;
- (d) receipt of any other monetary assistance;
- (e) receipt of in-kind gifts; or

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

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

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

SB0128S02 compared with SB0128S01

position.

(4) A person may not knowingly:

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

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

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

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

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

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

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

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

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

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

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

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

(b) grazes livestock on trust lands;

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

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

(b) three times the amount of damage committed;

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

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

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

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

(4) A violation of this section is a:

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

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

(c) class A misdemeanor if the actor's conduct causes property injury or damage, or

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

- (a) an individual who does not meet all of the provisions set forth in Section 63M-7-509;
 - (b) the offender;
 - (c) an accomplice of the offender;
 - (d) an individual whose receipt of a reparations award would unjustly benefit the offender, accomplice, or another individual reasonably suspected of participating in the offense;
 - (e) the victim of a motor vehicle injury who was the owner or operator of the motor vehicle and was not at the time of the injury in compliance with the state motor vehicle insurance laws;
 - (f) a convicted offender serving a sentence of imprisonment in any prison or jail or residing in any other correctional facility;
 - (g) an individual who is on probation or parole if the circumstances surrounding the offense of which the individual is a victim is a violation of the individual's probation or parole;
 - (h) an individual whose injuries are the result of criminally injurious conduct that occurred in a prison, jail, or another correctional facility while the individual was incarcerated;
- and
- (i) an individual who:
 - (i) submits a fraudulent claim; or

SB0128S02 compared with SB0128S01

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

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

(i) submit a fraudulent claim; or

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

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

(i) a class B misdemeanor if:

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

or

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

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

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

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

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

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

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

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

73-2-27. Criminal penalties.

(1) This section applies to offenses committed under:

(a) Section 73-1-14;

(b) Section 73-1-15;

(c) Section 73-2-20;

(d) Section 73-3-3;

(e) Section 73-3-26;

SB0128S02 compared with SB0128S01

- (f) Section 73-3-29;
- (g) Section 73-5-9;
- (h) Section 76-10-201;
- (i) Section 76-10-202; and
- (j) Section 76-10-203.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection 76-6-106(2)(a)(ii), Section 76-6-106.3, or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

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

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

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

(b) as a class A misdemeanor if:

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

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

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

Section 9. Section ~~{76-5-111}~~ 76-1-107.4 ~~{5}~~ is ~~{amended}~~ enacted to read:

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

- (7) Section 73-2-27, criminal penalties;
- (8) Section 76-5-111.4, financial exploitation of a vulnerable adult;
- (9) Section 76-6-102, arson;
- (10) Section 76-6-104, reckless burning;
- (11) Section 76-6-104.5, abandonment of a fire;
- (12) Section 76-6-106, criminal mischief;
- (13) Section 76-6-106.1, property damage or destruction;
- (14) Section 76-6-107, defacement by graffiti defined;
- (15) Section 76-6-404, theft;
- (16) Section 76-6-404.5, unauthorized possession of property;
- (17) Section 76-6-404.7, theft of motor vehicle fuel;
- (18) Section 76-6-405, theft by deception;
- (19) Section 76-6-406, theft by extortion;
- (20) Section 76-6-407, theft of lost, mislaid, or mistakenly delivered property;
- (21) Section 76-6-408, theft by receiving stolen property;
- (22) Section 76-6-409, theft of service;
- (23) Section 76-6-409.3, theft of utility or cable television services;
- (24) Section 76-6-409.6, use of telecommunication device to avoid lawful charge for service;
- (25) Section 76-6-410, theft by custodian of property pursuant to repair or rental agreement;
- (26) Section 76-6-413, release of a fur-bearing animal;
- (27) Section 76-6-505, issuing a bad check or draft;
- (28) Section 76-6-506.2, unlawful use of financial transaction card;
- (29) Section 76-6-506.6, financial transaction card offenses;
- (30) Section 76-6-506.8, false application for financial transaction card;
- (31) Section 76-6-506.9, use of fraudulent financial transaction card;
- (32) Section 76-6-513, unlawful dealing of property by a fiduciary;
- (33) Section 76-6-518, criminal simulation;
- (34) Section 76-6-521, insurance fraud;
- (35) Section 76-6-602, retail theft;

SB0128S02 compared with SB0128S01

(36) Section 76-6-608, theft detection shielding devices prohibited;

(37) Section 76-6-703, unlawful computer technology access or action or denial of service attack;

(38) Section 76-6-703.3, unlawful use of technology to defraud;

(39) Section 76-6-801, library theft;

(40) Section 76-6-803, mutilation or damaging of library material;

(41) Section 76-6-803.30, failure to return library material;

(42) Section 76-6-902, antiquities alteration, removal, injury, or destruction;

(43) Section 76-6-902.1, unlawful creation, labeling, or sale of reproduction of antiquities;

(44) Section 76-6-902.2, unlawful sale or exchange of antiquities;

(45) Section 76-6-1002, damage to mail receptacle;

(46) Section 76-6-1102, identity fraud;

(47) Section 76-6-1203, mortgage fraud;

(48) Section 76-8-103, bribery or offering a bribe;

(49) Section 76-8-105, receiving or soliciting bribe or bribery by public servant;

(50) Section 76-8-402, misusing public money or public property;

(51) Section 76-8-1206, penalties for public assistance fraud;

(52) Section 76-8-1301, false statements regarding unemployment compensation; or

(53) Section 76-10-1801, communications fraud.

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

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

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

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

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

(iii) "Deception" means:

(A) a misrepresentation or concealment:

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

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

SB0128S02 compared with SB0128S01

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

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

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

(v) "Intimidation" means communication conveyed through verbal or nonverbal conduct that threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or that threatens isolation or harm.

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

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

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

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

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

benefit of someone other than the vulnerable adult;

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

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

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

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

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

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

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

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

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

Section ~~{10}~~ 11. Section **76-6-102** is amended to read:

76-6-102. Arson.

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

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

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

(b) the property of another.

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~11~~12. Section **76-6-104** is amended to read:

76-6-104. Reckless burning.

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

SB0128S02 compared with SB0128S01

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

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

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

(c) builds or maintains a fire without taking reasonable steps to remove all flammable materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or

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

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

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

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

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

(ii) a class B misdemeanor if the damage to property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000 in value; and

(iii) a class C misdemeanor if the damage to property is or exceeds [~~\$150~~] \$200 but is less than [~~\$500~~] \$600 in value.

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

Section ~~{12}~~13. Section **76-6-104.5** is amended to read:

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

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

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

(a) without first completely extinguishing it; and

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

(3) A violation of Subsection (2):

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

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

and

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

SB0128S02 compared with SB0128S01

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

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

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

Section ~~{13}~~14. Section **76-6-106** is amended to read:

76-6-106. Criminal mischief.

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

(i) financial and banking systems;

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

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

(iv) public health facilities and systems;

(v) food distribution systems; and

(vi) other government operations and services.

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

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

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

(i) recklessly endangers:

(A) human life; or

(B) human health or safety; or

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

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

Section ~~{14}~~ 15. Section **76-6-106.1** is amended to read:

76-6-106.1. Property damage or destruction.

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

Section ~~15~~16. Section **76-6-107** is amended to read:

76-6-107. Defacement by graffiti defined -- Penalties -- Removal costs --

Reimbursement liability -- Victim liability.

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

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~†16~~17. Section **76-6-401.5** is enacted to read:

76-6-401.5. Sentencing Requirements.

SB0128S02 compared with SB0128S01

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

(~~1~~)a) order a defendant to undergo a mental health ~~evaluation and~~ screening or a substance abuse ~~evaluation~~ screening if the defendant is convicted of a second offense under this part within 10 years from the day on which the defendant was convicted of the first offense under this part;

(~~2~~)b) order ~~the~~a defendant to complete the terms and conditions of probation that is supervised by the Department of Corrections if:

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

(~~b~~)ii) the court is not imposing a prison sentence for the conviction; ~~and~~or

(~~3~~)c) consider ordering ~~the~~a defendant to probation that is supervised by the Department of Corrections, or an agency of a local government or a private organization, if the defendant is convicted of a third or subsequent offense under this part that is a class A misdemeanor within 10 years from the day on which the defendant was convicted of the first offense under this part.

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

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

Section ~~17~~18. Section 76-6-404 is amended to read:

76-6-404. Theft -- Elements.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.
- (3) A violation of Subsection (2) is:
 - (a) a second degree felony if the:
 - (i) value of the property is or exceeds [~~\$5,000~~] \$10,000;

SB0128S02 compared with SB0128S01

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

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

(b) a third degree felony if:

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

\$10,000;

(ii) the property is:

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

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

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

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

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

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

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

\$2,000;

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

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

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

(c) a class A misdemeanor if:

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

\$2,000;

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

SB0128S02 compared with SB0128S01

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

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

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

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

Section ~~{18}~~19. Section **76-6-404.5** is amended to read:

76-6-404.5. Unauthorized possession of property.

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

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

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

(a) a third degree felony if:

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

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

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

(b) a class A misdemeanor if:

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

(ii) the property is:

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

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

(c) a class B misdemeanor if:

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

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

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

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

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

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

(4) Unauthorized possession of property is a lesser included offense of the offense of

SB0128S02 compared with SB0128S01

theft under Section 76-6-404.

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

Section ~~{19}~~20. Section **76-6-404.7** is amended to read:

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

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

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

(2) An actor commits theft of motor vehicle fuel if the actor:

(a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:

(i) the fuel tank of the motor vehicle; or

(ii) any other container that is then removed from the premises by means of the motor vehicle; and

(b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor vehicle fuel without making full payment for the fuel.

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

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

(b) a third degree felony if:

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

(c) a class A misdemeanor if:

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

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

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

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

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

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

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

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

Section ~~20~~21. Section **76-6-405** is amended to read:

76-6-405. Theft by deception.

SB0128S02 compared with SB0128S01

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

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

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

(i) by deception; and

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

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.

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

(a) a second degree felony if the:

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

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

(b) a third degree felony if:

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

(ii) the property:

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

the past five years; and

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

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

(c) a class A misdemeanor if:

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

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

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

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

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

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

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

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

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

Section ~~21~~22. Section **76-6-406** is amended to read:

76-6-406. Theft by extortion.

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

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

(ii) subject the person threatened or any other person to physical confinement or

SB0128S02 compared with SB0128S01

restraint;

(iii) engage in other conduct constituting a crime;

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

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

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

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

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

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

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

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

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

(a) a second degree felony if the:

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

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

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

(b) a third degree felony if:

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

(ii) the property is:

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

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

SB0128S02 compared with SB0128S01

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

- (A) any theft, any robbery, or any burglary with intent to commit theft;
- (B) any offense under Part 5, Fraud; or
- (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

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

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

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

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

(c) a class A misdemeanor if:

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

Section ~~22~~23. Section **76-6-407** is amended to read:

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

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

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

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

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

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

(a) a second degree felony if the:

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

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

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

(b) a third degree felony if:

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

(ii) the property is:

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

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

(iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within

SB0128S02 compared with SB0128S01

10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

- (A) any theft, any robbery, or any burglary with intent to commit theft;
- (B) any offense under Part 5, Fraud; or
- (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
- (iv) (A) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]

\$2,000;

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

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

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

(c) a class A misdemeanor if:

- (i) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]

\$2,000;

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

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

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

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

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

Section ~~23~~24. Section **76-6-408** is amended to read:

76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers,

SB0128S02 compared with SB0128S01

secondhand businesses, coin dealers, and catalytic converter purchasers.

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

(i) "Catalytic converter purchaser" means the same as that term is defined in Section 13-32a-102.

(ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

(iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(iv) "Receives" means acquiring possession, control, title, or lending on the security of the property.

(v) "Scrap metal processor" means the same as that term is defined in Section 76-6-1402.

(vi) "Secondhand actor" means:

(A) a pawnbroker;

(B) a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property; or

(C) an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property.

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

(2) An actor commits theft by receiving stolen property if the actor receives, retains, or disposes of the property of another knowing that the property is stolen, or believing that the property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of the property.

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

(a) a second degree felony if:

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

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

(b) a third degree felony if:

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

(ii) the property is:

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

(c) a class A misdemeanor if:

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

or

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

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

(4) Except as provided in Subsection (5), the knowledge or belief required under Subsection (2) is presumed in the case of an actor who:

(a) is found in possession or control of other property stolen on a separate occasion; or

(b) has received other stolen property within the year preceding the receiving offense charged.

(5) (a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.

SB0128S02 compared with SB0128S01

(b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.

(c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.

(6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a scrap metal processor.

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

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

Section ~~{24}~~25. Section **76-6-409** is amended to read:

76-6-409. Theft of service.

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

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

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

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

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

(2) An actor commits theft of service if:

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

(b) the actor:

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

(ii) (A) diverts the other person's service to the benefit of the actor, knowing that the

SB0128S02 compared with SB0128S01

actor is not entitled to the service; or

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

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

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

(b) a third degree felony if:

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

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

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

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

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

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

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

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

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

(c) a class A misdemeanor if:

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

Section ~~25~~26. Section **76-6-409.3** is amended to read:

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

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

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

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

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

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

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

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

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

(2) An actor commits theft of a utility or cable television service if, with intent to avoid due payment to the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable television available to a tenant or occupant, including to the actor, by

SB0128S02 compared with SB0128S01

committing any of the following acts:

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

(b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company that the actor is not authorized by the company to receive;

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

service;

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

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

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

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

(i) a second degree felony if:

(A) the value of the gas, electricity, water, or sewer service is or exceeds [~~\$5,000~~ \$10,000]; or

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

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

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

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

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

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

(ii) a third degree felony if:

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

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

SB0128S02 compared with SB0128S01

before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

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

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

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

(C) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

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

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

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

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

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

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

(i) the presence of the device or alteration can be attributed only to a deliberate act in

SB0128S02 compared with SB0128S01

furtherance of an intent to avoid payment for utility or cable television service; and

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

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

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

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

Section ~~26~~27. Section **76-6-409.6** is amended to read:

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

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

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

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

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

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

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

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

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

(iv) a second degree felony, if:

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

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

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

(b) An actor who violates this section is subject to the restitution and civil action

SB0128S02 compared with SB0128S01

provisions described in Section 76-6-409.10.

Section ~~{27}~~28. Section **76-6-410** is amended to read:

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

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

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

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

(ii) the actor or another person is to perform for compensation a specific service for the property's owner involving the maintenance, repair, or use of the owner's property; and

(iii) the actor intentionally uses or operates the owner's property, without the consent of the owner, for the actor's own purposes in a manner constituting a gross deviation from the agreed purpose; or

(b) (i) the actor has custody of any property pursuant to a rental or lease agreement in which the property is to be returned in a specified manner or at a specified time; and

(ii) the actor intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

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

(a) a second degree felony if the:

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

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

(b) a third degree felony if:

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

(ii) the property is:

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

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

(iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within

SB0128S02 compared with SB0128S01

10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

- (A) any theft, any robbery, or any burglary with intent to commit theft;
- (B) any offense under Part 5, Fraud; or
- (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- (iv) the actor has been previously convicted of a felony violation of any of the offenses

listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

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

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

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

Section ~~28~~29. Section **76-6-413** is amended to read:

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

Section ~~{29}~~30. Section **76-6-505** is amended to read:

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

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

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

(A) the actor issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent;

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

(C) payment is refused by the drawee.

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

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

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

Section ~~30~~31. Section **76-6-506.2** is amended to read:

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

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

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

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

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

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

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

(i) the draft is counterfeit or fictitious;

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

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

(iv) the items or services purported to be sold as evidenced by the credit card sales

SB0128S02 compared with SB0128S01

drafts are not delivered or rendered to the card holder or person intended to receive them.

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

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

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

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

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

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

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

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

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

Section ~~31~~32. Section **76-6-506.6** is amended to read:

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

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

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

(a) knowingly, with intent to defraud;

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

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

SB0128S02 compared with SB0128S01

issuer:

- (i) for payment pertaining to any sale or purported sale of goods or services; and
- (ii) the sale or purported sale was not made by the authorized credit card merchant in the ordinary course of business.

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

- (i) a class B misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is less than [~~\$500~~] \$600;
- (ii) a class A misdemeanor if the value of the property, money, or thing obtained or sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;
- (iii) a third degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or
- (iv) a second degree felony if the value of the property, money, or thing obtained or attempted to be obtained is or exceeds [~~\$5,000~~] \$10,000.

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

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

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

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

Section ~~32~~33. Section **76-6-506.8** is amended to read:

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

- (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.
- (2) An actor commits false application for a card if the actor:
 - (a) knowingly, with the intent to defraud:
 - (i) makes application for a financial transaction card to an issuer; and
 - (ii) makes or causes to be made a false statement or report of the actor's name,

SB0128S02 compared with SB0128S01

occupation, financial condition, assets, or personal identifying information; or

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

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

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

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

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

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

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

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

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

Section ~~33~~34. Section **76-6-506.9** is amended to read:

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

Section ~~34~~35. Section **76-6-513** is amended to read:

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

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

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

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

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

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

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

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

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

(a) deals with property:

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

(ii) in a manner which:

SB0128S02 compared with SB0128S01

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

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

(b) acting as a fiduciary pledges:

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

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

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

(i) a second degree felony if the:

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

(B) property is stolen from the person of another;

(ii) a third degree felony if:

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

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

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

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

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

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

(D) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

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

(B) the actor has been twice before convicted of any of the offenses listed in

SB0128S02 compared with SB0128S01

Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

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

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

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

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

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

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

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

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

Section ~~35~~36. Section **76-6-518** is amended to read:

76-6-518. Criminal simulation.

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

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

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

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

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

or

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

SB0128S02 compared with SB0128S01

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

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

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

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

(d) if the value defrauded or intended to be defrauded is or exceeds [~~\$5,000~~] \$10,000, the offense is a second degree felony.

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

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

Section ~~36~~37. Section **76-6-521** is amended to read:

76-6-521. Insurance fraud.

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

to be determined;

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

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

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

(5) The determination of the degree of any offense under Subsections (2)(a)(i) and (2)(b) through (2)(h) shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections (2)(a)(i) and (2)(b) through (2)(h).

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

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

Section ~~37~~38. Section **76-6-602** is amended to read:

76-6-602. Retail theft.

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

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

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

(i) retaining the merchandise; or

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

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

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

SB0128S02 compared with SB0128S01

merchant of the retail value of the merchandise;

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

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

(e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

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

(a) a second degree felony if the:

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

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

(b) a third degree felony if:

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

(ii) the merchandise is:

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

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

(B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

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

(c) a class A misdemeanor if:

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

(ii) (A) the value of merchandise or shopping cart is less than [~~\$500~~] \$600;

(B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

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

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

Section ~~38~~39. Section **76-6-608** is amended to read:

76-6-608. Theft detection shielding devices prohibited.

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

(2) An actor commits the unlawful shielding of a theft detection device if the actor knowingly:

SB0128S02 compared with SB0128S01

(a) makes or possesses any container or device used for, intended for use for, or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor, with the intent to commit a theft of merchandise;

(b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any container or device intended for use for or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor;

(c) possesses any tool or instrument designed to remove any theft detection device from any merchandise, with the intent to use the tool or instrument to remove any theft detection device from any merchandise without the permission of the merchant or the person owning or in possession of the merchandise; or

(d) intentionally removes a theft detection device from merchandise prior to purchase and without the permission of the merchant.

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

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

(i) class B misdemeanor if the value of the merchandise from which the theft detection device is removed is less than [~~\$500~~] \$600; or

(ii) class A misdemeanor if the value of the merchandise from which the theft detection device is removed is or exceeds [~~\$500~~] \$600.

(4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4, Theft, or Part 6, Retail Theft.

(5) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Section ~~39~~40. Section **76-6-703** is amended to read:

76-6-703. Unlawful computer technology access or action or denial of service attack.

(1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful computer technology access or action or denial of service attack if the actor:

(a) without authorization, or in excess of the actor's authorization, accesses or attempts to access computer technology if the access or attempt to access results in:

(i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure

SB0128S02 compared with SB0128S01

of computer technology;

- (ii) interference with or interruption of:
 - (A) the lawful use of computer technology; or
 - (B) the transmission of data;
- (iii) physical damage to or loss of real, personal, or commercial property;
- (iv) audio, video, or other surveillance of another person; or
- (v) economic loss to any person or entity;
- (b) after accessing computer technology that the actor is authorized to access,

knowingly takes or attempts to take unauthorized or unlawful action that results in:

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

- (ii) interference with or interruption of:
 - (A) the lawful use of computer technology; or
 - (B) the transmission of data;
- (iii) physical damage to or loss of real, personal, or commercial property;
- (iv) audio, video, or other surveillance of another person; or
- (v) economic loss to any person or entity; or
- (c) knowingly engages in a denial of service attack.

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

(a) a class B misdemeanor if:

(i) the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is less than [~~\$500~~] \$600; or

(ii) the information obtained is not confidential;

(b) a class A misdemeanor if the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

(c) a third degree felony if:

(i) the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000;

(ii) the property or benefit obtained or sought to be obtained is a license or entitlement;

SB0128S02 compared with SB0128S01

(iii) the damage is to the license or entitlement of another person;

(iv) the information obtained is confidential or identifying information; or

(v) in gaining access the actor breaches or breaks through a security system; or

(d) a second degree felony if the economic loss or other loss or damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds [~~\$5,000~~] \$10,000.

(4) (a) It is an affirmative defense that the actor obtained access or attempted to obtain access:

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

(ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.

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

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

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

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

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

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

SB0128S02 compared with SB0128S01

- (A) unauthorized or fraudulent use of a network, service, or computer software;
- (B) illegal activity; or
- (C) infringement of intellectual property rights.

Section ~~40~~41. Section **76-6-703.3** is amended to read:

76-6-703.3. Unlawful use of technology to defraud.

(1) (a) As used in this section, "sensitive personal identifying information" means the same as that term is defined in Section 76-10-1801.

(b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful use of technology to defraud if the actor uses or knowingly allows another person to use a computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, a service, or other thing of value by a false pretense, promise, or representation.

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

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

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

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

(d) a second degree felony if:

(i) the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds [~~\$5,000~~] \$10,000; or

(ii) the object or purpose of the artifice or scheme to defraud is the obtaining of sensitive personal identifying information, regardless of the value.

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

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

SB0128S02 compared with SB0128S01

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

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

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

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

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

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section ~~{41}~~42. Section **76-6-801** is amended to read:

76-6-801. Library theft.

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

(i) "Library" means:

(A) a public library;

(B) a library of an educational or historical society;

(C) a museum; or

(D) a repository of public records.

(ii) "Library materials" means a book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a library.

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

(2) An actor commits library theft if the actor:

(a) willfully, for the purpose of converting to personal use, and depriving the owner,

SB0128S02 compared with SB0128S01

conceals on the actor's person or among the actor's belongings library materials while on the premises of the library; or

(b) willfully and without authority removes library materials from the library building with the intention of converting them to the actor's own use.

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

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

(b) a third degree felony if:

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

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

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

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

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

(iii) (A) the value of the library materials is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

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

(C) the offender has received written notice from the library prohibiting the offender from entering the property if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

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

(c) a class A misdemeanor if:

(i) the value of the library materials stolen is or exceeds [~~\$500~~] \$600 but is less than

SB0128S02 compared with SB0128S01

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

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

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

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

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

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

(4) (a) An actor who willfully conceals library materials on the actor's person or among the actor's belongings while on the premises of the library or in the library's immediate vicinity is prima facie presumed to have concealed library materials with the intention of converting the library materials to the actor's own use.

(b) If library materials are found concealed upon the actor's person or among the actor's belongings, or electronic security devices are activated by the actor's presence, it is prima facie evidence of willful concealment.

Section ~~{42}~~43. Section **76-6-803** is amended to read:

76-6-803. Mutilation or damaging of library material.

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

(i) "Library" means the same as that term is defined in Section 76-6-801.

(ii) "Library materials" means the same as that term is defined in Section 76-6-801.

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

(2) An actor is guilty of mutilation or damage of library materials if the actor intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or otherwise damages library materials.

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

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

SB0128S02 compared with SB0128S01

(b) a third degree felony if:

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

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

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

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

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

(iii) (A) the value of the library materials is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

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

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

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

(c) a class A misdemeanor if:

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

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

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

(C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10

SB0128S02 compared with SB0128S01

years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

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

Section ~~{43}~~44. Section **76-6-803.30** is amended to read:

76-6-803.30. Failure to return library material -- Written notice.

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

(i) "Library" means the same as that term is defined in Section 76-6-801.

(ii) "Library materials" means the same as that term is defined in Section 76-6-801.

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

(2) (a) An actor is guilty of failure to return library materials if the actor, having possession or having been in possession of library materials:

(i) fails to return the materials within 30 days after receiving written notice demanding return of the materials; or

(ii) if the materials are lost or destroyed, fails to pay the replacement value of the materials within 30 days after being notified.

(b) Written notice is considered received upon the sworn affidavit of the person delivering the notice with a statement as to the date, place, and manner of delivery, or upon proof that the notice was mailed postage prepaid, via the United States Postal Service, to the current address listed for the person in the library records.

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

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

(b) a third degree felony if:

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

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

SB0128S02 compared with SB0128S01

- (A) any theft, any robbery, or any burglary with intent to commit theft;
 - (B) any offense under Part 5, Fraud; or
 - (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
- (iii) (A) the value of the library materials is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;
- (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
- (C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
- (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
- (i) the value of the library materials stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;
 - (ii) (A) the value of the library materials is less than [~~\$500~~] \$600;
 - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the library if the library has complied with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
 - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the library material stolen is less than [~~\$500~~] \$600 and the theft is not an offense under Subsection (3)(c).

Section ~~{44}~~45. Section **76-6-902** is amended to read:

76-6-902. Antiquities alteration, removal, injury, or destruction.

- (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.
- (2) An actor commits antiquities alteration, removal, injury, or destruction if the actor:

SB0128S02 compared with SB0128S01

(a) intentionally alters, removes, injures, or destroys antiquities from state lands or private lands without the landowner's consent; or

(b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

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

(i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902.1, or Section 76-6-902.2; or

(ii) the amount at issue, as calculated under Subsection (3)(c), exceeds [~~\$500~~] \$1,000.

(c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

(i) the commercial or archaeological value of the antiquities involved in the violation; and

(ii) the cost of the restoration and repair of the antiquities involved in the violation.

(d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Section ~~{45}~~46. Section **76-6-902.1** is amended to read:

76-6-902.1. Unlawful creation, labeling, or sale of reproduction of antiquities.

(1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

(2) An actor commits unlawful reproduction, labeling, or sale of reproduction of antiquities if the actor:

(a) with the intent to represent one or more objects as original and genuine antiquities, intentionally:

(i) reproduces, reworks, or forges antiquities; or

(ii) (A) makes an object, whether as a copy or not; or

(B) falsely labels, describes, identifies, or offers for sale or exchange an object; or

(b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

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

(i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902, or Section 76-6-902.2; or

SB0128S02 compared with SB0128S01

(ii) the amount at issue, as calculated under Subsection (3)(c), exceeds [~~\$500~~] \$1,000.

(c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

(i) the commercial or archaeological value of the antiquities involved in the violation;

and

(ii) the cost of the restoration and repair of the antiquities involved in the violation.

(d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Section ~~{46}~~47. Section **76-6-902.2** is amended to read:

76-6-902.2. Unlawful sale or exchange of antiquities.

(1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

(2) An actor commits unlawful sale or exchange of antiquities if the actor:

(a) offers for sale or exchange an object that was collected or excavated in violation of Section 76-6-902; or

(b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

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

(i) the violation is the actor's second or subsequent violation of this section, Section 76-6-902, or Section 76-6-902.1; or

(ii) the amount at issue, as calculated under Subsection (3)(c), exceeds [~~\$500~~] \$1,000.

(c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

(i) the commercial or archaeological value of the antiquities involved in the violation;

and

(ii) the cost of the restoration and repair of the antiquities involved in the violation.

(d) An actor shall surrender to the landowner all articles and material discovered, collected, excavated, or offered for sale or exchange in violation of this section.

Section ~~{47}~~48. Section **76-6-1002** is amended to read:

76-6-1002. Damage to mail receptacle.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1001 apply to this section.

(2) An actor commits damage to a mail receptacle if the actor knowingly damages the condition of a mail receptacle, including:

SB0128S02 compared with SB0128S01

(a) taking, concealing, damaging, or destroying a key; or

(b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.

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

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

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

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

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

(b) If the act committed amounts to an offense subject to a greater penalty, Subsection (3)(a) does not prohibit prosecution and sentencing for the more serious offense.

(4) The following presumptions and defenses shall be applicable to this section:

(a) possession of property recently stolen, when no satisfactory explanation of such possession is made, is prima facie evidence that the actor in possession stole the property;

(b) it is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this Subsection (4)(b) shall not include a security interest for the repayment of a debt or obligation; and

(c) it is a defense under this section that the actor:

(i) acted under an honest claim of right to the property or service involved;

(ii) acted in the honest belief that the actor had the right to obtain or exercise control over the property or service as the actor did; or

(iii) obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

Section ~~{48}~~49. Section **76-6-1102** is amended to read:

76-6-1102. Identity fraud.

(1) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.

(2) An actor commits identity fraud if the actor knowingly or intentionally uses, or

SB0128S02 compared with SB0128S01

attempts to use, the personal identifying information of another person, whether that person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment, any other thing of value, or medical information.

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

(a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the credit, goods, services, employment, or any other thing of value is less than [~~\$5,000~~] \$10,000;

or

(b) a second degree felony if:

(i) the value of the credit, goods, services, employment, or any other thing of value is or exceeds [~~\$5,000~~] \$10,000; or

(ii) the use described in Subsection (2) of personal identifying information results, directly or indirectly, in bodily injury to another person.

(4) (a) It is not a defense to a violation of Subsection (2) that the actor did not know that the personal information belonged to another person.

(b) Multiple violations of Subsection (2) may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.

(5) (a) If a defendant is convicted of a violation of this section, the court shall order the defendant to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act.

(b) Restitution under Subsection (5)(a) may include:

(i) payment for any costs incurred, including attorney fees, lost wages, and replacement of checks; and

(ii) the value of the victim's time incurred due to the offense:

(A) in clearing the victim's credit history or credit rating;

(B) in any civil or administrative proceedings necessary to satisfy or resolve any debt, lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

(C) in attempting to remedy any other intended or actual harm to the victim incurred as a result of the offense.

Section ~~{49}~~50. Section **76-6-1203** is amended to read:

76-6-1203. Mortgage fraud.

SB0128S02 compared with SB0128S01

(1) Terms defined in Sections 76-1-101.5 and 76-6-1202 apply to this section.

(2) An actor commits mortgage fraud if the actor does any of the following with the intent to defraud:

(a) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

(b) knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

(c) files or causes to be filed with any county recorder in Utah any document that the actor knows contains a material misstatement, misrepresentation, or omission; or

(d) receives any proceeds or any compensation in connection with a mortgage loan that the actor knows resulted from a violation of this section.

(3) (a) Notwithstanding any other administrative, civil, or criminal penalties, a violation of Subsection (2) is a:

(i) class A misdemeanor if the value is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

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

(iii) second degree felony if the value is or exceeds [~~\$5,000~~] \$10,000; and

(iv) second degree felony if the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.

(b) The determination of the degree of any offense under Subsection (3)(a) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of Subsection (2), except as provided in Subsection (3)(a)(iv).

(4) Each residential or commercial property transaction offense under this section constitutes a separate violation.

The following section is affected by a coordination clause at the end of this bill.

Section ~~50~~51. Section **76-8-103** is amended to read:

76-8-103. Bribery or offering a bribe.

SB0128S02 compared with SB0128S01

(1) A person is guilty of bribery or offering a bribe if that person promises, offers, or agrees to give or gives, directly or indirectly, any benefit to another with the purpose or intent to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion of a public servant, party official, or voter.

(2) It is not a defense to a prosecution under this statute that:

(a) the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

(b) the person sought to be influenced did not act in the desired way; or

(c) the benefit is not conferred, solicited, or accepted until after:

(i) the action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, has occurred; or

(ii) the public servant ceases to be a public servant.

(3) Bribery or offering a bribe is:

(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or conferred is less than [~~\$1,000~~] \$2,000; and

(b) a second degree felony when the value of the benefit asked for, solicited, accepted, or conferred is [~~\$1,000~~] \$2,000 or more.

The following section is affected by a coordination clause at the end of this bill.

Section ~~51~~52. Section **76-8-105** is amended to read:

76-8-105. Receiving or soliciting bribe or bribery by public servant.

(1) A person is guilty of receiving or soliciting a bribe if that person asks for, solicits, accepts, or receives, directly or indirectly, any benefit with the understanding or agreement that the purpose or intent is to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter.

(2) It is not a defense to a prosecution under this statute that:

(a) the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

(b) the person sought to be influenced did not act in the desired way; or

(c) the benefit is not asked for, conferred, solicited, or accepted until after:

(i) the action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, has occurred; or

SB0128S02 compared with SB0128S01

(ii) the public servant ceases to be a public servant.

(3) Receiving or soliciting a bribe is:

(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or conferred is [~~\$1,000~~] \$2,000 or less; and

(b) a second degree felony when the value of the benefit asked for, solicited, accepted, or conferred exceeds [~~\$1,000~~] \$2,000.

Section ~~{52}~~53. Section **76-8-402** is amended to read:

76-8-402. Misusing public money or public property.

(1) As used in this section, "authorized personal use" means:

(a) the use of public property, for a personal matter, by a public servant if:

(i) the public servant is authorized to use or possess the public property to fulfill the public servant's duties as a public servant;

(ii) the primary purpose of the public servant using or possessing the public property is to fulfill the public servant's duties as a public servant;

(iii) at the time the public servant uses the public property for a personal matter, a written policy of the public servant's public entity is in effect that authorizes the public servant to use or possess the public property for personal use in addition to the primary purpose of fulfilling the public servant's duties as a public servant; and

(iv) the public servant uses and possesses the public property in a lawful manner and in accordance with the policy described in Subsection (1)(a)(iii); or

(b) incidental or de minimus use of public property for a personal matter by a public servant, if:

(i) the value provided to the public servant's public entity by the public servant's use or possession of the public property for a public purpose substantially outweighs the personal benefit received by the employee from the incidental use of the public property for a personal matter; and

(ii) the incidental or de minimus use of the public property for a personal matter is not prohibited by law or by the public servant's public entity.

(2) It is unlawful for a public servant to knowingly:

(a) appropriate public money to the public servant's own use or benefit or to the use or benefit of another without authority of law;

SB0128S02 compared with SB0128S01

- (b) loan or transfer public money without authority of law;
 - (c) fail to keep public money in the public servant's possession until disbursed by authority of law;
 - (d) deposit public money in a bank or with another person in violation of the written policy of the public servant's public entity or the requirements of law;
 - (e) keep a false account or make a false entry or erasure in an account of, or relating to, public money;
 - (f) fraudulently alter, falsify, conceal, or destroy an account described in Subsection (2)(e);
 - (g) refuse or omit to pay over, on demand, any public money in the public servant's custody or control, upon the presentation of a draft, order, or warrant drawn upon the public money by competent authority;
 - (h) omit to transfer public money when the transfer is required by law;
 - (i) omit or refuse to pay over, to any officer or person authorized by law to receive public money, public money received by the public servant under any duty imposed on the public servant by law;
 - (j) damage or dispose of public property in violation of the written policy of the public servant's public entity or the requirements of law;
 - (k) obtain or exercise unauthorized control of public property with the intent to deprive the owner of possession of the public property;
 - (l) obtain or exercise unauthorized control of public property with the intent to temporarily appropriate, possess, use, or deprive the owner of possession of the public property;
 - (m) appropriate public property to the public servant's own use or benefit or to the use or benefit of another without authority of law;
 - (n) loan or transfer public property without authority of law; or
 - (o) fail to keep public property in the public servant's possession until returned to the property owner, or disposed of or relinquished, in accordance with the written policy of the public servant's public entity and the requirements of law.
- (3) Except as provided in Subsection (4), a violation of Subsections (2)(a) through (i) is a felony of the third degree.

SB0128S02 compared with SB0128S01

- (4) A violation of Subsections (2)(a) through (i) is a felony of the second degree if:
- (a) the value of the public money exceeds [~~\$5,000~~] \$10,000;
 - (b) the amount of the false account exceeds [~~\$5,000~~] \$10,000;
 - (c) the amount falsely entered exceeds [~~\$5,000~~] \$10,000;
 - (d) the amount that is the difference between the original amount and the fraudulently altered amount exceeds [~~\$5,000~~] \$10,000; or
 - (e) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the account exceeds [~~\$5,000~~] \$10,000.
- (5) A violation of Subsection (2)(j) is:
- (a) a class B misdemeanor, if the cost to repair or replace the public property is less than [~~\$500~~] \$600;
 - (b) a class A misdemeanor, if the cost to repair or replace the public property is [~~\$500~~] \$600 or more[;] but less than [~~\$1,500~~] \$2,000;
 - (c) a felony of the third degree, if the cost to repair or replace the public property is [~~\$1,500~~] \$2,000 or more[;] but less than [~~\$5,000~~] \$10,000; or
 - (d) a felony of the second degree, if the cost to repair or replace the public property is [~~\$5,000~~] \$10,000 or more.
- (6) A violation of Subsection (2)(k), (m), (n), or (o) is:
- (a) a class B misdemeanor, if the value of the public property is less than [~~\$500~~] \$600;
 - (b) a class A misdemeanor, if the value of the public property is [~~\$500~~] \$600 or more[;] but less than [~~\$1,500~~] \$2,000;
 - (c) a felony of the third degree, if the value of the public property is [~~\$1,500~~] \$2,000 or more[;] but less than [~~\$5,000~~] \$10,000; or
 - (d) a felony of the second degree, if the value of the public property is [~~\$5,000~~] \$10,000 or more.
- (7) A violation of Subsection (2)(l) is:
- (a) a class C misdemeanor, if the value of the public property is less than [~~\$500~~] \$600;
 - (b) a class B misdemeanor, if the value of the public property is [~~\$500~~] \$600 or more[;] but less than [~~\$1,500~~] \$2,000;
 - (c) a class A misdemeanor, if the value of the public property is [~~\$1,500~~] \$2,000 or more[;] but less than [~~\$5,000~~] \$10,000; or

SB0128S02 compared with SB0128S01

(d) a felony of the third degree, if the value of the public property is [~~\$5,000~~] \$10,000 or more.

(8) In addition to the penalty described in Subsections (3) through (7), a public officer who is convicted of a felony violation of Subsection (2):

(a) is subject to the penalties described in Section 76-8-404; and

(b) may not disburse public funds or access public accounts.

(9) [~~(a)~~] A public servant is not guilty of a violation of Subsections (2)(j) through (o) for authorized personal use of public property.

(10) It is not a defense to a violation of Subsection (2) that:

(a) subsequent to the violation, a public entity modifies or adopts a policy or law, or takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a violation; or

(b) a written policy of the public servant's public entity permits private use of the public property if it is proven, beyond a reasonable doubt, that the public servant did not comply with the written policy.

Section ~~53~~ 54. Section **76-8-1206** is amended to read:

76-8-1206. Penalties for public assistance fraud.

(1) The severity of the offense of public assistance fraud is classified in accordance with the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied for as follows:

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

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

(c) class A misdemeanor if the value is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000; and

(d) class B misdemeanor if the value is less than [~~\$500~~] \$600.

(2) For purposes of Subsection (1), the value of an offense is calculated by aggregating the values of each instance of public assistance fraud committed by the defendant as part of the same facts and circumstances or a related series of facts and circumstances.

(3) Incidents of trafficking in SNAP benefits as defined in Section 35A-1-102 that occur within a six-month period, committed by an individual or coconspirators, are deemed to

SB0128S02 compared with SB0128S01

be a related series of facts and circumstances regardless of whether the transactions are conducted with a variety of unrelated parties.

Section ~~{54}~~55. Section **76-8-1301** is amended to read:

76-8-1301. False statements regarding unemployment compensation -- Penalties.

(1) (a) A person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase a benefit or other payment under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any state or of the federal government for any person is guilty of unemployment insurance fraud.

(b) A violation of Subsection (1)(a) is:

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

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

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

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

(c) The determination of the degree of an offense under Subsection (1)(b) shall be measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

(2) (a) An officer or agent of an employing unit as defined in Section 35A-4-202 or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment compensation benefits to an individual entitled to those benefits, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any state or of the federal government, or who willfully fails or refuses to make a contribution or other payment or to furnish any report required in Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or copying of records as required under that chapter is guilty of unemployment insurance fraud.

SB0128S02 compared with SB0128S01

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

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

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

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

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

(3) (a) A person who willfully violates any provision of Title 35A, Chapter 4, Employment Security Act, or any order made under that chapter, the violation of which is made unlawful or the observance of which is required under the terms of that chapter, and for which a penalty is neither prescribed in that chapter nor provided by any other applicable statute is guilty of a class A misdemeanor.

(b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.

(4) A person is guilty of a class C misdemeanor if:

(a) as an employee of the Department of Workforce Services, in willful violation of Section 35A-4-312, the employee makes a disclosure of information obtained from an employing unit or individual in the administration of Title 35A, Chapter 4, Employment Security Act; or

(b) the person has obtained a list of applicants for work or of claimants or recipients of benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of the list for any political purpose.

Section ~~{55}~~56. Section **76-10-1801** is amended to read:

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

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

(a) a class B misdemeanor when the value of the property, money, or thing obtained or

SB0128S02 compared with SB0128S01

sought to be obtained is less than [~~\$500~~] \$600;

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

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

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

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

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

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

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

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

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

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

(ii) give by way of information;

(iii) talk over; or

(iv) transmit information.

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

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

(8) As used in this section, "sensitive personal identifying information" means

SB0128S02 compared with SB0128S01

information regarding an individual's:

- (a) Social Security number;
- (b) driver's license number or other government issued identification number;
- (c) financial account number or credit or debit card number;
- (d) password or personal identification number or other identification required to gain access to a financial account or a secure website;
- (e) automated or electronic signature;
- (f) unique biometric data; or
- (g) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

Section ~~56~~57. Section **77-18-105** is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

- (a) in accordance with Chapter 2a, Pleas in Abeyance; and
- (b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

- (a) shall impose a sentence in accordance with Section 76-3-201; and
- (b) subject to Subsection (5) and Section 76-6-401.5, may suspend the execution of the sentence and place the defendant:

- (i) on probation under the supervision of the department;
- (ii) on probation under the supervision of an agency of a local government or a private organization; or

- (iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

SB0128S02 compared with SB0128S01

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and

SB0128S02 compared with SB0128S01

Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

SB0128S02 compared with SB0128S01

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Section ~~{57}~~58. **Effective date.**

SB0128S02 compared with SB0128S01

This bill takes effect on May 1, 2024.

Section 59. Coordinating S.B. 128 with H.B. 15.

If S.B. 128, Criminal Monetary Threshold Amendments, and H.B. 15, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 1, 2024:

(1) Subsection 76-8-103(3) enacted in H.B. 15 be amended to read:

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

(a) a second degree felony if the value of the benefit is \$2,000 or more; or

(b) a third degree felony if the value of the benefit is less than \$2,000.";

(2) Subsection 76-8-105(3) enacted in H.B. 15 be amended to read:

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

(a) a second degree felony if the value of the benefit asked for, solicited, accepted, or conferred is more than \$2,000; or

(b) a third degree felony if the value of the benefit asked for, solicited, accepted, or conferred is \$2,000 or less.";

(3) Subsection 76-8-1203.1(3) enacted in H.B. 15 be amended to read:

"(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds \$10,000;

(b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;

(c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or

(d) a class B misdemeanor if the value is less than \$600.";

(4) Subsection 76-8-1203.3(3) enacted in H.B. 15 be amended to read:

"(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds \$10,000;

(b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;

(c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or

(d) a class B misdemeanor if the value is less than \$600.";

(5) Subsection 76-8-1203.5(3) enacted in H.B. 15 be amended to read:

"(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of

SB0128S02 compared with SB0128S01

payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds \$10,000;

(b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;

(c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or

(d) a class B misdemeanor if the value is less than \$600.";

(6) Subsection 76-8-1203.7(3) enacted in H.B. 15 be amended to read:

"(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of

payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds \$10,000;

(b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;

(c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or

(d) a class B misdemeanor if the value is less than \$600.";

(7) Subsection 76-8-1302(3) enacted in H.B. 15 be amended to read:

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

(a) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than \$600;

(b) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds \$600 but is less than \$2,000;

(c) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds \$2,000 but is less than \$10,000; or

(d) a second degree felony if the value of the money obtained or sought to be obtained is or exceeds \$10,000."; and

(8) Subsection 76-8-1303(3) enacted in H.B. 15 be amended to read:

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

(i) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than \$600;

(ii) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds \$600 but is less than \$2,000;

(iii) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds \$2,000 but is less than \$10,000; or

(iv) a second degree felony if the value of the money obtained or sought to be obtained

SB0128S02 compared with SB0128S01

is or exceeds \$10,000.

(b) A violation of Subsection (2)(b) is a class A misdemeanor."