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Criminal Offenses Modifications

2025 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

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General Description:

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This bill addresses changes related to certain criminal offenses and enhancements.

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Highlighted Provisions:

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This bill:

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▸ amends the enhancement for offenses committed in concert with three or more persons or in relation to a criminal street gang;

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▸ amends certain theft, retail theft, and prostitution sentencing enhancements to include prior convictions in other state, federal, or military courts;

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▸ clarifies that in sentencing for an offense related to retail theft, the value of the stolen item is determined by the item's retail value;

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▸ amends the offense of sexual extortion;

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▸ amends the definition of "financial transaction card" in Section 76-6-506;

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▸ adds offenses that may be charged as part of a pattern of unlawful activity;

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▸ increases the fine for an individual who is convicted of the offense of patronizing a prostitute;

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▸ increases penalties for an individual who:

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• acts to bring a minor into a criminal street gang in certain circumstances; and

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• acts to intimidate a minor into remaining in a criminal street gang in certain

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circumstances;

23 ▸ includes coordination clauses to coordinate changes between this bill, H.B. 21, Criminal
24 Code Recodification and Cross References, and H.B. 22, Prostitution Offense
25 Amendments; and

26 ▸ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides coordination clauses.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **76-3-203.1**, as last amended by Laws of Utah 2024, Chapter 96

34 **76-5b-204**, as last amended by Laws of Utah 2024, Chapter 127

35 **76-6-404**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
36 Coordination Clause, Laws of Utah 2023, Chapter 407

37 **76-6-404.5**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
38 Coordination Clause, Laws of Utah 2023, Chapter 407

39 **76-6-404.7**, as last amended by Laws of Utah 2023, Chapter 111

40 **76-6-405**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
41 Coordination Clause, Laws of Utah 2023, Chapter 407

42 **76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
43 Coordination Clause, Laws of Utah 2023, Chapter 407

44 **76-6-407**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
45 Coordination Clause, Laws of Utah 2023, Chapter 407

46 **76-6-408**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
47 Coordination Clause, Laws of Utah 2023, Chapter 407

48 **76-6-409**, as last amended by Laws of Utah 2023, Chapter 111

49 **76-6-409.3**, as last amended by Laws of Utah 2023, Chapter 111

50 **76-6-410**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
51 Coordination Clause, Laws of Utah 2023, Chapter 407

52 **76-6-506**, as last amended by Laws of Utah 2023, Chapter 111

53 **76-6-602**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
54 Coordination Clause, Laws of Utah 2023, Chapter 407

55 **76-6-608**, as last amended by Laws of Utah 2023, Chapter 111

56 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96

- 57 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15
- 58 **76-10-1302**, as last amended by Laws of Utah 2023, Chapter 111
- 59 **76-10-1303**, as last amended by Laws of Utah 2024, Chapter 140
- 60 **76-10-1304**, as last amended by Laws of Utah 2018, Chapter 308
- 61 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96
- 62 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207
- 63 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207

64 ENACTS:

- 65 **76-9-803.1**, Utah Code Annotated 1953
- 66 **76-9-803.2**, Utah Code Annotated 1953
- 67 **76-9-803.3**, Utah Code Annotated 1953

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

70 Section 1. Section **76-3-203.1** is amended to read:

71 **76-3-203.1 . Enhanced penalty for offenses committed in or for a certain group.**

72 (1) As used in this section:

73 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

74 (b) "In concert with ~~three~~ two or more ~~persons~~ individuals" means:

75 (i) the ~~defendant~~ actor was aided or encouraged by ~~at least three other persons~~ at
 76 least two other individuals in committing ~~the~~ an offense and was aware of this
 77 aid or encouragement; and

78 (ii) ~~each of the other persons~~ each of the other individuals:

79 (A) was physically present; and

80 (B) participated as a party to ~~any~~ an offense listed in Subsection ~~[(4), (5), or (6)]~~
 81 (6) or (7).

82 (c) "In concert with ~~three~~ two or more ~~persons~~ individuals" means, regarding intent:

83 (i) any other ~~persons~~ individual participating as ~~parties~~ a party need not have the
 84 intent to engage in the same offense or degree of offense as the ~~defendant~~ actor;
 85 and

86 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
 87 minor were an adult.

88 (d) "Organized criminal group" means a group of three or more individuals, whether
 89 operating formally or informally, that:

90 (i) has as one of the group's purposes the commission of criminal offenses; and

91 (ii) whose members collectively engage in committing criminal offenses for the
 92 financial or other material benefit of the members or group.

93 (e) "Principal place of residence" means the single location where an individual's
 94 habitation is fixed and to which, whenever the individual is absent, the individual has
 95 the intention of returning, as evidenced by:

96 (i) the intent expressed by the individual; and

97 (ii) acts of the individual that are consistent or inconsistent with the intent expressed
 98 by the individual.

99 (2) ~~[A person]~~ An actor who commits ~~[any offense in accordance with this section]~~ an
 100 offense listed in Subsection (6) is subject to an enhanced penalty for the offense as
 101 provided in Subsection [(4), (5), or (6)] (5) if the trier of fact finds beyond a reasonable
 102 doubt that the [person] actor acted:

103 (a) in concert with [three] two or more [persons] individuals;

104 (b) for the benefit of, at the direction of, or in association with [any] a criminal street
 105 gang [as defined in Section 76-9-802] or other organized criminal group; or

106 (c) to gain recognition, acceptance, membership, or increased status with a criminal
 107 street gang [as defined in Section 76-9-802] or other organized criminal group.

108 (3) An actor who commits an offense listed in Subsection (7) is subject to an enhanced
 109 penalty for the offense as provided in Subsection (5) if the trier of fact finds beyond a
 110 reasonable doubt that the actor:

111 (a)(i) acted in concert with two or more individuals; and

112 (ii)(A) traveled more than 50 miles from the actor's principal place of residence
 113 for the purpose of the actor committing an offense listed in Subsection (7); or

114 (B) had previously been convicted of an offense listed in Subsection (7), or an
 115 offense in another jurisdiction, including a state, federal, or military court, that
 116 is substantially equivalent to an offense under Subsection (7);

117 (b) acted for the benefit of, at the direction of, or in association with a criminal street
 118 gang or other organized criminal group; or

119 (c) acted to gain recognition, acceptance, membership, or increased status with a
 120 criminal street gang or other organized criminal group.

121 ~~[(3)]~~ (4) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
 122 be subscribed upon the information or indictment notice that the ~~[defendant]~~ actor is
 123 subject to the enhanced penalties provided under this section.

124 ~~[(4)(a)]~~ For an offense listed in Subsection (4)(b), a person may be charged as follows:]

- 125 [(i) for a class B misdemeanor, as a class A misdemeanor; and]
- 126 [(ii) for a class A misdemeanor, as a third degree felony;]
- 127 [(b) The following offenses are subject to Subsection (4)(a):]
- 128 [(i) criminal mischief as described in Section 76-6-106;]
- 129 [(ii) property damage or destruction as described in Section 76-6-106.1; and]
- 130 [(iii) defacement by graffiti as described in Section 76-6-107;]
- 131 [(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:]
- 132 [(i) for a class B misdemeanor, as a class A misdemeanor;]
- 133 [(ii) for a class A misdemeanor, as a third degree felony; and]
- 134 [(iii) for a third degree felony, as a second degree felony;]
- 135 [(b) The following offenses are subject to Subsection (5)(a):]
- 136 [(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);]
- 137 [(ii) any offense of obstructing government operations under Chapter 8, Part 3,
- 138 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,
- 139 76-8-307, 76-8-308, and 76-8-312;]
- 140 [(iii) tampering with a witness under Section 76-8-508;]
- 141 [(iv) retaliation against a witness, victim, or informant, or other violation of Section
- 142 76-8-508.3;]
- 143 [(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 144 [(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section
- 145 76-8-509;]
- 146 [(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]
- 147 [(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.]
- 148 [(6) (5)(a) For an offense listed in Subsection [(6)(b), a person] (6) or (7), an actor may
- 149 be charged as follows:
- 150 [(i) (a) for a class B misdemeanor, as a class A misdemeanor;
- 151 [(ii) (b) for a class A misdemeanor, as a third degree felony;
- 152 [(iii) (c) for a third degree felony, as a second degree felony; and
- 153 [(iv) (d) for a second degree felony, as a first degree felony.
- 154 [(b) (6) The [following offenses are subject to Subsection (6)(a)] offenses referred to in
- 155 Subsection (2) are:
- 156 [(i) (a) [assault and related offenses under] an offense described in Chapter 5, Part 1,
- 157 Assault and Related Offenses;
- 158 [(ii) (b) [any criminal homicide offense under] an offense described in Chapter 5, Part 2,

- 159 Criminal Homicide;
- 160 ~~[(iii)] (c) [kidnapping and related offenses under]~~ a felony offense described in Chapter 5,
- 161 Part 3, Kidnapping, Trafficking, and Smuggling;
- 162 ~~[(iv)] (d) [any felony sexual offense under]~~ a felony offense described in Chapter 5, Part
- 163 4, Sexual Offenses;
- 164 ~~[(v)] sexual exploitation of a minor as defined in Section 76-5b-201;~~
- 165 ~~[(vi)] aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;~~
- 166 ~~[(vii)] (e) robbery [and]~~ as described in Section 76-6-202;
- 167 (f) aggravated robbery ~~[under Chapter 6, Part 3, Robbery; and]~~ as described in Section
- 168 76-6-203;
- 169 (g) burglary as described in Subsection 76-6-202(3)(b);
- 170 (h) aggravated burglary as described in Section 76-6-203;
- 171 (i) an offense described in Chapter 10, Part 5, Weapons;
- 172 (j) a felony violation of aiding prostitution as described in Section 76-10-1304;
- 173 (k) exploiting prostitution as described in Section 76-10-1305;
- 174 ~~[(viii)] (l) aggravated exploitation of prostitution under Section 76-10-1306[.];~~
- 175 (m) burglary of a research facility as described in Section 76-10-2002; and
- 176 (n) transporting or harboring aliens as described in Section 76-10-2901.
- 177 (7) The offenses referred to in Subsection (3) are:
- 178 (a) criminal solicitation of a minor as described in Section 76-4-205;
- 179 (b) an offense described in Chapter 6, Part 1, Property Destruction;
- 180 (c) an offense described in Chapter 6, Part 4, Theft;
- 181 (d) an offense described in Chapter 6, Part 6, Retail Theft;
- 182 (e) an offense described in Chapter 6, Part 11, Identity Fraud Act;
- 183 (f) communications fraud as described in Section 76-10-1801; and
- 184 (g) an offense described in Chapter 10, Part 19, Money Laundering and Currency
- 185 Transaction Reporting Act.
- 186 ~~[(7)] (8) [The]~~ A court may, if not otherwise prohibited from doing so by another section of
- 187 the code, suspend a sentence imposed under [Subsection (4), (5), or (6)] may be
- 188 suspended] this section and place the [individual placed] actor on probation[for the
- 189 higher level of offense].
- 190 ~~[(8)] (9)~~ It is not a bar to imposing the enhanced penalties under this section that the ~~[persons]~~
- 191 individuals with whom the actor is alleged to have acted in concert are not identified,
- 192 apprehended, charged, or convicted, or that any of those ~~[persons]~~ individuals are

193 charged with or convicted of a different or lesser offense.

194 Section 2. Section **76-5b-204** is amended to read:

195 **76-5b-204 . Sexual extortion -- Penalties.**

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

197 (i) "Adult" means an individual 18 years old or older.

198 (ii) "Child" means any individual under the age of 18.

199 (iii) "Intimate image" means the same as that term is defined in Section 76-5b-203.

200 (iv) "Position of special trust" means the same as that term is defined in Section
201 76-5-404.1.

202 (v) "Sexually explicit conduct" means the same as that term is defined in Section
203 76-5b-203.

204 (vi) "Simulated sexually explicit conduct" means the same as that term is defined in
205 Section 76-5b-203.

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

207 (2)(a) An actor commits the offense of sexual extortion if the actor:

208 (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit
209 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
210 distribute an image, video, or other recording of any individual naked or engaged
211 in sexually explicit conduct, communicates by any means a threat:

212 (A) to the victim's person, property, or reputation; or

213 (B) to distribute an intimate image or video of the victim;

214 (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit
215 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
216 distribute any image, video, or other recording of any individual naked or engaged
217 in sexually explicit conduct by means of a threat:

218 (A) to the victim's person, property, or reputation; or

219 (B) to distribute an intimate image or video of the victim; or

220 (iii) with intent to obtain a thing of value from a victim communicates, by any means,
221 a threat to distribute an intimate image or video of the victim.

222 (b) An actor commits aggravated sexual extortion when, in conjunction with the offense
223 described in Subsection (2)(a), any of the following circumstances have been charged
224 and admitted or found true in the action for the offense:

225 (i) the victim is a child or vulnerable adult;

226 (ii) the offense was committed by the use of a dangerous weapon or by violence,

- 227 intimidation, menace, fraud, or threat of physical harm, or was committed during
228 the course of a kidnapping;
- 229 (iii) ~~[the actor caused]~~ the victim suffered bodily injury or severe psychological
230 injury ~~[to the victim]~~ during, or as a result of, the offense;
- 231 (iv) the actor was a stranger to the victim, or became a friend of the victim, for the
232 purpose of committing the offense;
- 233 (v) the actor, before sentencing for the offense, was previously convicted of any
234 sexual offense;
- 235 (vi) the actor occupied a position of special trust in relation to the victim;
- 236 (vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or
237 sexual acts by the victim with any other individual, or sexual performance by the
238 victim before any other individual, human trafficking, or human smuggling; or
- 239 (viii) the actor caused the penetration, however slight, of the genital or anal opening
240 of the victim by any part or parts of the human body, or by any other object.

241 (3)(a) If the actor is an adult:

- 242 (i) ~~[A]~~ a violation of Subsection (2)(a) is a third degree felony.
- 243 (ii) ~~[A]~~ a violation of Subsection ~~[(2)(b)]~~ (2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in
244 which the victim is an adult is a second degree felony.
- 245 (iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first
246 degree felony.
- 247 ~~[(iii)]~~ (iv) [A] a violation of Subsection (2)(b) in which the victim is a child or a
248 vulnerable adult is a first degree felony.

249 (b) If the actor is a child:

- 250 (i) ~~[A]~~ a violation of Subsection (2)(a) is a class A misdemeanor.
- 251 (ii) ~~[A]~~ a violation of Subsection (2)(b) is a third degree felony if there is more than a
252 two-year age gap between the actor and the victim.

253 (c) An actor commits a separate offense under this section:

- 254 (i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and
255 (ii) for each separate time the actor subjects a victim to the offense outlined
256 Subsection (2)(a).

257 (d) This section does not preclude an actor from being charged and convicted of a
258 separate criminal act if the actor commits the separate criminal act while the
259 individual violates or attempts to violate this section.

260 (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to

261 liability under this section related to content provided by a user of the interactive
262 computer service.

263 Section 3. Section **76-6-404** is amended to read:

264 **76-6-404 . Theft -- Elements.**

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

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

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

269 (a) a second degree felony if the:

270 (i) value of the property is or exceeds \$5,000;

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

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

273 (b) a third degree felony if:

274 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

275 (ii) the property is:

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

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

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

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

286 (B) any offense under Part 5, Fraud;[-~~or~~]

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

288 (D) any offense in another jurisdiction, including a state, federal, or military court,
289 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
290 (B), or (C);

291 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;

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

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

- 295 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 296 (v) the actor has been previously convicted of a felony violation of any of the
- 297 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if the
- 298 prior offense was committed within 10 years before the date of the current
- 299 conviction or the date of the offense upon which the current conviction is based;
- 300 (c) a class A misdemeanor if:
- 301 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 302 (ii)(A) the value of property is less than \$500;
- 303 (B) the theft occurs on a property where the offender has committed any theft
- 304 within the past five years; and
- 305 (C) the offender has received written notice from the merchant prohibiting the
- 306 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 307 (iii) the actor has been twice before convicted of any of the offenses listed in
- 308 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if each prior offense was
- 309 committed within 10 years before the date of the current conviction or the date of
- 310 the offense upon which the current conviction is based; or
- 311 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 312 theft is not an offense under Subsection (3)(c).

313 Section 4. Section **76-6-404.5** is amended to read:

314 **76-6-404.5 . Unauthorized possession of property.**

- 315 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 316 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
- 317 unauthorized control over another person's property, without the consent of the
- 318 property's owner or legal custodian, and with the intent to temporarily appropriate,
- 319 possess, or use the property or to temporarily deprive the property's owner or legal
- 320 custodian of possession of the property.
- 321 (3) A violation of Subsection (2) is:
- 322 (a) a third degree felony if:
- 323 (i) the value of the property is or exceeds \$5,000;
- 324 (ii) the property is a firearm or an operable motor vehicle; or
- 325 (iii) the property is taken from the person of another;
- 326 (b) a class A misdemeanor if:
- 327 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 328 (ii) the property is:

- 329 (A) a catalytic converter as defined under Section 76-6-1402; or
330 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402
331 if the value is less than \$5,000 and the suspect metal is made of or contains
332 aluminum or copper and is not a lead battery;
- 333 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
334 convicted of any of the following offenses, if each prior offense was committed
335 within 10 years before the date of the current conviction or the date of the offense
336 upon which the current conviction is based and at least one of those convictions is
337 for a class A misdemeanor:
- 338 (A) any theft, any robbery, or any burglary with intent to commit theft;
339 (B) any offense under Part 5, Fraud;[-or]
340 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
341 (D) any offense in another jurisdiction, including a state, federal, or military court,
342 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
343 (B), or (C);
- 344 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
345 (B) the unauthorized possession of property occurs on a property where the
346 offender has committed any theft within the past five years; and
347 (C) the offender has received written notice from the merchant prohibiting the
348 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 349 (v) the actor has been previously convicted of a felony violation of any of the
350 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
351 prior offense was committed within 10 years before the date of the current
352 conviction or the date of the offense upon which the current conviction is based;
- 353 (c) a class B misdemeanor if:
- 354 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
355 (ii)(A) the value of property is less than \$500;
356 (B) the unauthorized possession of property occurs on a property where the
357 offender has committed any theft within the past five years; and
358 (C) the offender has received written notice from the merchant prohibiting the
359 offender from entering the property pursuant to Subsection 78B-3-108(4); or
360 (iii) the actor has been twice before convicted of any of the offenses listed in
361 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
362 committed within 10 years before the date of the current conviction or the date of

- 363 the offense upon which the current conviction is based; or
 364 (d) a class C misdemeanor if the value of the property is less than \$500 and the
 365 unauthorized possession of property is not an offense under Subsection (3)(c).
 366 (4) Unauthorized possession of property is a lesser included offense of the offense of theft
 367 under Section 76-6-404.
 368 (5) The consent of the owner or legal custodian of the property to the property's control by
 369 the actor is not presumed or implied because of the owner's or legal custodian's consent
 370 on a previous occasion to the control of the property by any person.

371 Section 5. Section **76-6-404.7** is amended to read:

372 **76-6-404.7 . Theft of motor vehicle fuel.**

- 373 (1)(a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
 374 matter, or substance that is used in an internal combustion engine for the generation
 375 of power.
 376 (b) Terms defined in Section 76-1-101.5 apply to this section.
 377 (2) An actor commits theft of motor vehicle fuel if the actor:
 378 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
 379 retail sale when motor fuel has been dispensed into:
 380 (i) the fuel tank of the motor vehicle; or
 381 (ii) any other container that is then removed from the premises by means of the motor
 382 vehicle; and
 383 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
 384 operator of the premises of the motor vehicle fuel without making full payment for
 385 the fuel.
 386 (3) A violation of Subsection (2) is:
 387 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;
 388 (b) a third degree felony if:
 389 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000;[~~or~~]
 390 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been
 391 twice before convicted of any of the following offenses, if each prior offense was
 392 committed within 10 years before the date of the current conviction or the date of
 393 the offense upon which the current conviction is based and at least one of those
 394 convictions is for a class A misdemeanor:
 395 (A) any theft, any robbery, or any burglary with intent to commit theft;
 396 (B) any offense under Part 5, Fraud;[~~or~~]

397 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
398 (D) any offense in another jurisdiction, including a state, federal, or military court,
399 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
400 (B), or (C);

401 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
402 \$1,500;

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

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

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

411 (c) a class A misdemeanor if:

412 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;

413 (ii)(A) the value of the motor vehicle fuel is less than \$500;

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

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

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

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

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

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

429 Section 6. Section **76-6-405** is amended to read:

430 **76-6-405 . Theft by deception.**

- 431 (1)(a) As used in this section, "puffing" means an exaggerated commendation of wares
 432 or worth in a communication addressed to an individual, group, or the public.
- 433 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 434 (2)(a) An actor commits theft by deception if the actor obtains or exercises control over
 435 property of another person:
- 436 (i) by deception; and
 437 (ii) with a purpose to deprive the other person of property.
- 438 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
 439 Subsection (2)(a)(ii) may occur at separate times.
- 440 (3) A violation of Subsection (2) is:
- 441 (a) a second degree felony if the:
- 442 (i) value of the property is or exceeds \$5,000; or
 443 (ii) property stolen is a firearm or an operable motor vehicle;
- 444 (b) a third degree felony if:
- 445 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 446 (ii) the property:
- 447 (A) is a catalytic converter as defined under Section 76-6-1402; or
 448 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
 449 if the value is less than \$5,000 and the suspect metal is made of or contains
 450 aluminum or copper and is not a lead battery;
- 451 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 452 convicted of any of the following offenses, if each prior offense was committed
 453 within 10 years before the date of the current conviction or the date of the offense
 454 upon which the current conviction is based and at least one of those convictions is
 455 for a class A misdemeanor:
- 456 (A) any theft, any robbery, or any burglary with intent to commit theft;
 457 (B) any offense under Part 5, Fraud; ~~or~~
 458 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 459 (D) any offense in another jurisdiction, including a state, federal, or military court,
 460 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 461 (B), or (C);
- 462 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
 463 (B) the theft occurs on a property where the offender has committed any theft
 464 within the past five years; and

- 465 (C) the offender has received written notice from the merchant prohibiting the
466 offender from entering the property pursuant to Subsection 78B-3-108(4); or
467 (v) the actor has been previously convicted of a felony violation of any of the
468 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
469 prior offense was committed within 10 years before the date of the current
470 conviction or the date of the offense upon which the current conviction is based;
- 471 (c) a class A misdemeanor if:
- 472 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 473 (ii)(A) the value of property is less than \$500;
- 474 (B) the theft occurs on a property where the offender has committed any theft
475 within the past five years; and
- 476 (C) the offender has received written notice from the merchant prohibiting the
477 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 478 (iii) the actor has been twice before convicted of any of the offenses listed in
479 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
480 committed within 10 years before the date of the current conviction or the date of
481 the offense upon which the current conviction is based; or
- 482 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
483 theft is not an offense under Subsection (3)(c).
- 484 (4) Theft by deception does not occur when there is only:
- 485 (a) falsity as to matters having no pecuniary significance; or
- 486 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.
- 487 Section 7. Section **76-6-406** is amended to read:
- 488 **76-6-406 . Theft by extortion.**
- 489 (1)(a) As used in this section, extortion occurs when an actor threatens to:
- 490 (i) cause physical harm in the future to the person threatened, to any other person, or
491 to property at any time;
- 492 (ii) subject the person threatened or any other person to physical confinement or
493 restraint;
- 494 (iii) engage in other conduct constituting a crime;
- 495 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
496 ridicule;
- 497 (v) reveal any information sought to be concealed by the person threatened;
- 498 (vi) testify, provide information, or withhold testimony or information with respect to

- 499 a person's legal claim or defense;
- 500 (vii) take action as an official against anyone or anything, or withhold official action,
- 501 or cause such action or withholding;
- 502 (viii) bring about or continue a strike, boycott, or other similar collective action to
- 503 obtain property that is not demanded or received for the benefit of the group that
- 504 the actor purports to represent; or
- 505 (ix) do any other act which would not in itself substantially benefit the actor but
- 506 which would harm substantially any other person with respect to that person's
- 507 health, safety, business, calling, career, financial condition, reputation, or personal
- 508 relationships.
- 509 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 510 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
- 511 property of another person by extortion and with a purpose to deprive the person of the
- 512 person's property.
- 513 (3) A violation of Subsection (2) is:
- 514 (a) a second degree felony if the:
- 515 (i) value of the property is or exceeds \$5,000;
- 516 (ii) property stolen is a firearm or an operable motor vehicle; or
- 517 (iii) property is stolen from the person of another;
- 518 (b) a third degree felony if:
- 519 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 520 (ii) the property is:
- 521 (A) a catalytic converter as defined under Section 76-6-1402; or
- 522 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 523 if the value is less than \$5,000 and the suspect metal is made of or contains
- 524 aluminum or copper and is not a lead battery;
- 525 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 526 convicted of any of the following offenses, if each prior offense was committed
- 527 within 10 years before the date of the current conviction or the date of the offense
- 528 upon which the current conviction is based and at least one of those convictions is
- 529 for a class A misdemeanor:
- 530 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 531 (B) any offense under Part 5, Fraud;[~~or~~]
- 532 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

533 (D) any offense in another jurisdiction, including a state, federal, or military court,
 534 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 535 (B), or (C);

536 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;

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

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

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

545 (c) a class A misdemeanor if:

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

547 (ii)(A) the value of property is less than \$500;

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

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

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

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

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

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

563 Section 8. Section **76-6-407** is amended to read:

564 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**

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

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

- 567 (a) obtains another person's property and knows the property to have been lost or
 568 mislaid, or to have been delivered under a mistake as to the identity of the recipient
 569 or as to the nature or amount of the property, without taking reasonable measures to
 570 return the property to the owner; and
- 571 (b) has the purpose to deprive the owner of the property when the actor obtains the
 572 property or at any time before taking the measures described in Subsection (2)(a).
- 573 (3) A violation of Subsection (2) is:
- 574 (a) a second degree felony if the:
- 575 (i) value of the property is or exceeds \$5,000;
- 576 (ii) property stolen is a firearm or an operable motor vehicle; or
- 577 (iii) property is stolen from the person of another;
- 578 (b) a third degree felony if:
- 579 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 580 (ii) the property is:
- 581 (A) a catalytic converter as defined under Section 76-6-1402; or
- 582 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
 583 if the value is less than \$5,000 and the suspect metal is made of or contains
 584 aluminum or copper and is not a lead battery;
- 585 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 586 convicted of any of the following offenses, if each prior offense was committed
 587 within 10 years before the date of the current conviction or the date of the offense
 588 upon which the current conviction is based and at least one of those convictions is
 589 for a class A misdemeanor:
- 590 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 591 (B) any offense under Part 5, Fraud;[-~~or~~]
- 592 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 593 (D) any offense in another jurisdiction, including a state, federal, or military court,
 594 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 595 (B), or (C);
- 596 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 597 (B) the theft occurs on a property where the offender has committed any theft
 598 within the past five years; and
- 599 (C) the offender has received written notice from the merchant prohibiting the
 600 offender from entering the property pursuant to Subsection 78B-3-108(4); or

- 601 (v) the actor has been previously convicted of a felony violation of any of the
 602 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 603 prior offense was committed within 10 years before the date of the current
 604 conviction or the date of the offense upon which the current conviction is based;
- 605 (c) a class A misdemeanor if:
- 606 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 607 (ii)(A) the value of property is less than \$500;
- 608 (B) the theft occurs on a property where the offender has committed any theft
 609 within the past five years; and
- 610 (C) the offender has received written notice from the merchant prohibiting the
 611 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 612 (iii) the actor has been twice before convicted of any of the offenses listed in
 613 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 614 committed within 10 years before the date of the current conviction or the date of
 615 the offense upon which the current conviction is based; or
- 616 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 617 theft is not an offense under Subsection (3)(c).

618 Section 9. Section **76-6-408** is amended to read:

619 **76-6-408 . Theft by receiving stolen property -- Duties of pawnbrokers,**
 620 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

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

- 622 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
 623 13-32a-102.
- 624 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
- 625 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 626 (iv) "Receives" means acquiring possession, control, title, or lending on the security
 627 of the property.
- 628 (v) "Scrap metal processor" means the same as that term is defined in Section
 629 76-6-1402.
- 630 (vi) "Secondhand actor" means:
- 631 (A) a pawnbroker;
- 632 (B) a person who has or operates a business dealing in or collecting used or
 633 secondhand merchandise or personal property; or
- 634 (C) an agent, employee, or representative of a pawnbroker or person who buys,

635 receives, or obtains property.

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

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

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

643 (a) a second degree felony if:

644 (i) the value of the property is or exceeds \$5,000; or

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

646 (b) a third degree felony if:

647 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

648 (ii) the property is:

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

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

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

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

659 (B) any offense under Part 5, Fraud;[-~~or~~]

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

661 (D) any offense in another jurisdiction, including a state, federal, or military court,
 662 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 663 (B), or (C); or

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

668 (c) a class A misdemeanor if:

- 669 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
670 (ii) the actor has been twice before convicted of any of the offenses listed in
671 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
672 committed within 10 years before the date of the current conviction or the date of
673 the offense upon which the current conviction is based; or
674 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
675 not an offense under Subsection (3)(c).
- 676 (4) Except as provided in Subsection (5), the knowledge or belief required under
677 Subsection (2) is presumed in the case of an actor who:
678 (a) is found in possession or control of other property stolen on a separate occasion; or
679 (b) has received other stolen property within the year preceding the receiving offense
680 charged.
- 681 (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of a
682 secondhand actor if the secondhand actor does not substantially comply with the
683 material requirements of Section 13-32a-104.
684 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
685 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the
686 coin dealer does not substantially comply with the requirements of Section
687 13-32a-104.5.
688 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
689 catalytic converter purchaser if the catalytic converter purchaser does not
690 substantially comply with the material requirements of Section 13-32a-104.7.
- 691 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a
692 scrap metal processor.
- 693 (7) This section does not preclude the admission of evidence in accordance with the Utah
694 Rules of Evidence.
- 695 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
696 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
697 attorney fees.

698 Section 10. Section **76-6-409** is amended to read:

699 **76-6-409 . Theft of service.**

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

- 701 (i) labor, professional service, a public utility or transportation service, restaurant,
702 hotel, motel, tourist cabin, rooming house, and like accommodations, the

- 703 supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph
704 service, steam, admission to entertainment, an exhibition, a sporting event, or
705 other event for which a charge is made;
- 706 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
707 obtained by threat, force, or a form of deception not described in Section
708 76-6-409.3; and
- 709 (iii) telephone service, only if the service is obtained by threat, force, or a form of
710 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
711 76-6-409.9.
- 712 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 713 (2) An actor commits theft of service if:
- 714 (a) the actor, by deception, threat, force, or another means designed to avoid due
715 payment, obtains a service that the actor knows is available only for compensation; or
- 716 (b) the actor:
- 717 (i) has control over the disposition of another person's service; and
- 718 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
719 the actor is not entitled to the service; or
- 720 (B) diverts the other person's service to the benefit of a third person, knowing that
721 the third person is not entitled to the service.
- 722 (3) A violation of Subsection (2) is:
- 723 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 724 (b) a third degree felony if:
- 725 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 726 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
727 convicted of any of the following offenses, if each prior offense was committed
728 within 10 years before the date of the current conviction or the date of the offense
729 upon which the current conviction is based and at least one of those convictions is
730 for a class A misdemeanor:
- 731 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 732 (B) any offense under Part 5, Fraud;[-or]
- 733 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 734 (D) any offense in another jurisdiction, including a state, federal, or military court,
735 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
736 (B), or (C);

- 737 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;
- 738 (B) the theft occurs on a property where the offender has committed any theft
- 739 within the past five years; and
- 740 (C) the offender has received written notice from the merchant prohibiting the
- 741 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 742 (iv) the actor has been previously convicted of a felony violation of any of the
- 743 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if the prior
- 744 offense was committed within 10 years before the date of the current conviction or
- 745 the date of the offense upon which the current conviction is based;
- 746 (c) a class A misdemeanor if:
- 747 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
- 748 (ii)(A) the value of the service is less than \$500;
- 749 (B) the theft occurs on a property where the offender has committed any theft
- 750 within the past five years; and
- 751 (C) the offender has received written notice from the merchant prohibiting the
- 752 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 753 (iii) the actor has been twice before convicted of any of the offenses listed in
- 754 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if each prior offense was
- 755 committed within 10 years before the date of the current conviction or the date of
- 756 the offense upon which the current conviction is based; or
- 757 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
- 758 an offense under Subsection (3)(c).

759 Section 11. Section **76-6-409.3** is amended to read:

760 **76-6-409.3 . Theft of utility or cable television services -- Restitution -- Civil**
 761 **action for damages.**

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

- 763 (i) "Cable television service" means an audio, video, or data service provided for
- 764 payment by a cable television company over the cable company's cable system
- 765 facilities, but does not include the use of a satellite dish or antenna.
- 766 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
- 767 part of a building, whether alone or with others.
- 768 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or
- 769 tenant by the entirety of the whole or a part of a building and the property on
- 770 which the building is located.

- 771 (iv) "Person" means an individual, firm, partnership, corporation, company,
772 association, or other legal entity.
- 773 (v) "Tenant" includes a person, including the owner, who occupies the whole or part
774 of any building, whether alone or with others.
- 775 (vi) "Utility" means any public utility, municipally owned utility, or cooperative
776 utility that provides electricity, gas, water, or sewer, or any combination of
777 electricity, gas, water, or sewer, for sale to consumers.
- 778 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 779 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due
780 payment to the utility or cable television company, the actor makes gas, electricity,
781 water, sewer, or cable television available to a tenant or occupant, including to the actor,
782 by committing any of the following acts:
- 783 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or
784 other instrument used for conducting gas, electricity, water, sewer, or cable television
785 in a manner as permits the use of the gas, electricity, water, sewer, or cable television
786 without the gas, electricity, water, sewer, or cable television passing through a meter
787 or other instrument recording the usage for billing;
- 788 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
789 other instrument used for measuring quantities of gas, electricity, water, or sewer
790 service, or making or maintaining any modification or alteration to any device
791 installed with the authorization of a cable television company for the purpose of
792 intercepting or receiving any program or other service carried by the company that
793 the actor is not authorized by the company to receive;
- 794 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
795 otherwise restoring service when one or more of those utilities or cable service has
796 been lawfully disconnected or turned off by the provider of the utility or cable service;
- 797 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
798 device, or other part of a metering device for recording usage of gas, electricity,
799 water, or sewer service, or a security system for the recording device, or a cable
800 television control device;
- 801 (e) removing a metering device designed to measure quantities of gas, electricity, water,
802 or sewer service;
- 803 (f) transferring from one location to another location a metering device for measuring
804 quantities of public utility services of gas, electricity, water, or sewer service;

- 805 (g) changing the indicated consumption, jamming the measuring device, bypassing the
806 meter or measuring device with a jumper so that it does not indicate use or registers
807 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
808 service from the utility without the gas, electricity, water, or sewer service passing
809 through a metering device for measuring quantities of consumption for billing
810 purposes;
- 811 (h) using a metering device belonging to the utility that has not been assigned to the
812 location and installed by the utility;
- 813 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
814 utility service diversion, meter tampering, meter thefts, and unauthorized cable
815 television service;
- 816 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
817 television service without payment of all lawful compensation to the company
818 providing the service;
- 819 (k) making or maintaining a connection or connections, whether physical, electrical,
820 mechanical, acoustical, or by other means, with a cable, wire, component, or other
821 device used for the distribution of cable television services without authority from the
822 cable television company; or
- 823 (l) possessing without authority any device or printed circuit board designed in whole or
824 in part to receive any cable television programming or service offered for sale over a
825 cable television system, unless the device or printed circuit board includes the use of
826 a satellite dish or antenna, with the intent that the device or printed circuit be used for
827 the reception of the cable television company's services without payment.
- 828 (3)(a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
- 829 (i) a second degree felony if:
- 830 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000;
- 831 or
- 832 (B) if the actor previously has been convicted of a violation of this section;
- 833 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is
834 or exceeds \$1,500 but is not more than \$5,000;
- 835 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service
836 is or exceeds \$500 but is not more than \$1,500; or
- 837 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service
838 is less than \$500.

- 839 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
840 is:
- 841 (i) a second degree felony if the value of the service is or exceeds \$5,000;
- 842 (ii) a third degree felony if:
- 843 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 844 (B) the value of the service is or exceeds \$500 and the actor has been twice before
845 convicted of any of the following offenses, if each prior offense was committed
846 within 10 years before the date of the current conviction or the date of the
847 offense upon which the current conviction is based and at least one of those
848 convictions is for a class A misdemeanor:
- 849 (I) any theft, any robbery, or any burglary with intent to commit theft;
- 850 (II) any offense under Part 5, Fraud;[~~or~~]
- 851 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);
852 or
- 853 (IV) any offense in another jurisdiction, including a state, federal, or military
854 court, that is substantially equivalent to an offense under Subsection
855 (3)(b)(ii)(B)(I), (II), or (III); or
- 856 (C) the actor has been previously convicted of a felony violation of any of the
857 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV),
858 if the prior offense was committed within 10 years before the date of the
859 current conviction or the date of the offense upon which the current conviction
860 is based;
- 861 (iii) a class A misdemeanor if:
- 862 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
- 863 (B) the actor has been twice before convicted of any of the offenses listed in
864 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV), if each prior
865 offense was committed within 10 years before the date of the current
866 conviction or the date of the offense upon which the current conviction is
867 based; or
- 868 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
869 not an offense under Subsection (3)(b)(iii).
- 870 (c)(i) An actor who violates this section shall make restitution to the utility or cable
871 television company for the value of the gas, electricity, water, sewer, or cable
872 television service consumed in violation of this section plus all reasonable

- 873 expenses and costs incurred on account of the violation of this section.
- 874 (ii) Reasonable expenses and costs include expenses and costs for investigation,
875 disconnection, reconnection, service calls, employee time, and equipment use.
- 876 (4)(a) The presence on property in the possession of an actor of a device or alteration
877 that permits the diversion or use of utility or cable service to avoid the registration of
878 the use by or on a meter installed by the utility or to otherwise avoid the recording of
879 use of the service for payment or otherwise avoid payment gives rise to an inference
880 that the actor in possession of the property installed the device or caused the
881 alteration if:
- 882 (i) the presence of the device or alteration can be attributed only to a deliberate act in
883 furtherance of an intent to avoid payment for utility or cable television service; and
884 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
885 utility or cable television service.
- 886 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
887 76-2-202.
- 888 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
889 cable television company to bring a civil action for redress for damages suffered as a
890 result of the commission of any of the acts prohibited by this section.
- 891 (b) This section does not abridge or alter any other right, action, or remedy otherwise
892 available to a utility or cable television company.
- 893 Section 12. Section **76-6-410** is amended to read:
- 894 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**
- 895 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 896 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
897 if:
- 898 (a)(i) the actor has custody of property pursuant to an agreement between the actor or
899 another person and the property's owner;
- 900 (ii) the actor or another person is to perform for compensation a specific service for
901 the property's owner involving the maintenance, repair, or use of the owner's
902 property; and
- 903 (iii) the actor intentionally uses or operates the owner's property, without the consent
904 of the owner, for the actor's own purposes in a manner constituting a gross
905 deviation from the agreed purpose; or
- 906 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in

- 907 which the property is to be returned in a specified manner or at a specified time;
- 908 and
- 909 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
- 910 return so as to render such failure a gross deviation from the agreement.
- 911 (3) A violation of Subsection (2) is:
- 912 (a) a second degree felony if the:
- 913 (i) value of the property is or exceeds \$5,000; or
- 914 (ii) property stolen is a firearm or an operable motor vehicle;
- 915 (b) a third degree felony if:
- 916 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 917 (ii) the property is:
- 918 (A) a catalytic converter as defined under Section 76-6-1402; or
- 919 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 920 if the value is less than \$5,000 and the suspect metal is made of or contains
- 921 aluminum or copper and is not a lead battery;
- 922 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 923 convicted of any of the following offenses, if each prior offense was committed
- 924 within 10 years before the date of the current conviction or the date of the offense
- 925 upon which the current conviction is based and at least one of those convictions is
- 926 for a class A misdemeanor:
- 927 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 928 (B) any offense under Part 5, Fraud;[-~~or~~]
- 929 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 930 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 931 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 932 (B), or (C); or
- 933 (iv) the actor has been previously convicted of a felony violation of any of the
- 934 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 935 prior offense was committed within 10 years before the date of the current
- 936 conviction or the date of the offense upon which the current conviction is based;
- 937 (c) a class A misdemeanor if:
- 938 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
- 939 (ii) the actor has been twice before convicted of any of the offenses listed in
- 940 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was

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

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

945 Section 13. Section **76-6-506** is amended to read:

946 **76-6-506 . Financial transaction card offenses -- Definitions.**

947 As used in Sections 76-6-506.2, 76-6-506.3, 76-6-506.6, 76-6-506.8, and 76-6-506.9:

948 (1) "Authorized credit card merchant" means a person who is authorized by an issuer to
949 furnish money, goods, services, or anything else of value upon presentation of a
950 financial transaction card by a card holder and to present valid credit card sales drafts to
951 the issuer for payment.

952 (2) "Automated banking device" means any machine which, when properly activated by a
953 financial transaction card or a personal identification code, may be used for any of the
954 purposes for which a financial transaction card may be used.

955 (3) "Card holder" means any person or organization named on the face of a financial
956 transaction card to whom or for whose benefit a financial transaction card is issued.

957 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record
958 of a sale of money, goods, services, or anything else of value made or purported to be
959 made to or at the request of a card holder with a financial transaction card, financial
960 transaction card credit number, or personal identification code, whether the record of the
961 sale or purported sale is evidenced by a sales draft, voucher, or other similar document
962 in writing or electronically recorded and transmitted.

963 (5) "Financial transaction card" means:

964 (a) any credit card, credit plate, bank services card, banking card, check guarantee card,
965 debit card, telephone credit card, or any other card, issued by an issuer for the use of
966 the card holder in obtaining money, goods, services, or anything else of value on
967 credit, or in certifying or guaranteeing to a person or business the availability to the
968 card holder of the funds on deposit that are equal to or greater than the amount
969 necessary to honor a draft or check payable to the order of the person or business;[-or]

970 (b) any instrument or device used in providing the card holder access to a demand or
971 time deposit account for the purpose of making deposits of money or checks in the
972 account, or withdrawing funds from the account in the form of money, money orders,
973 travelers' checks, or other form representing value, or transferring funds from any
974 demand or time deposit account to any credit card account in full or partial

975 satisfaction of any outstanding balance existing in the credit card account[.] ; or
 976 (c) a card, code, or device that is:
 977 (i) issued to a consumer on a prepaid basis in a specified amount, regardless of
 978 whether that amount may be increased or reloaded in exchange for payment;
 979 (ii) activated or inactivated; and
 980 (iii) redeemable upon presentation:
 981 (A) by a consumer at a single merchant or group of affiliated merchants; or
 982 (B) at multiple unaffiliated merchants for goods or services within the payment
 983 card network.

984 (6) "Issuer" means a business organization or financial institution or its agent that issues a
 985 financial transaction card.

986 (7) "Personal identification code" means any numerical or alphabetical code assigned to a
 987 card holder by the issuer to permit the authorized electronic use of the holder's financial
 988 transaction card.

989 Section 14. Section **76-6-602** is amended to read:

990 **76-6-602 . Retail theft.**

991 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

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

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

996 (i) retaining the merchandise; or

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

999 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or
 1000 any other markings which aid in determining value of any merchandise displayed,
 1001 held, stored, or offered for sale, in a retail mercantile establishment; and

1002 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
 1003 or in consort with another at less than the retail value with the intention of
 1004 depriving the merchant of the retail value of the merchandise;

1005 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
 1006 mercantile establishment from the container in or on which the merchandise is
 1007 displayed to any other container with the intention of depriving the merchant of the
 1008 retail value of the merchandise;

- 1009 (d) under-rings with the intention of depriving the merchant of the retail value of the
1010 merchandise; or
- 1011 (e) removes a shopping cart from the premises of a retail mercantile establishment with
1012 the intent of depriving the merchant of the possession, use, or benefit of the shopping
1013 cart.
- 1014 (3) A violation of Subsection (2) is:
- 1015 (a) a second degree felony if the:
- 1016 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;
- 1017 (ii) merchandise stolen is a firearm or an operable motor vehicle;~~[-or]~~
- 1018 (b) a third degree felony if:
- 1019 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
- 1020 (ii) the merchandise is:
- 1021 (A) a catalytic converter as defined under Section 76-6-1402; or
- 1022 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
1023 if the retail value is less than \$5,000 and the suspect metal is made of or
1024 contains aluminum or copper and is not a lead battery;
- 1025 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
1026 actor has been twice before convicted of any of the following offenses, if each
1027 prior offense was committed within 10 years before the date of the current
1028 conviction or the date of the offense upon which the current conviction is based
1029 and at least one of those convictions is for a class A misdemeanor:
- 1030 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 1031 (B) any offense under Part 5, Fraud;~~[-or]~~
- 1032 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 1033 (D) any offense in another jurisdiction, including a state, federal, or military court,
1034 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
1035 (B), or (C);
- 1036 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
1037 less than \$1,500;
- 1038 (B) the theft occurs in a retail mercantile establishment or on the premises of a
1039 retail mercantile establishment where the offender has committed any theft
1040 within the past five years; and
- 1041 (C) the offender has received written notice from the merchant prohibiting the
1042 offender from entering the retail mercantile establishment or premises of a

- 1043 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 1044 (v) the actor has been previously convicted of a felony violation of any of the
- 1045 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if the
- 1046 prior offense was committed within 10 years before the date of the current
- 1047 conviction or the date of the offense upon which the current conviction is based;
- 1048 (c) a class A misdemeanor if:
- 1049 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
- 1050 is less than \$1,500;
- 1051 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 1052 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 1053 mercantile establishment where the offender has committed any theft within
- 1054 the past five years; and
- 1055 (C) the offender has received written notice from the merchant prohibiting the
- 1056 offender from entering the retail mercantile establishment or premises of a
- 1057 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 1058 (iii) the actor has been twice before convicted of any of the offenses listed in
- 1059 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
- 1060 committed within 10 years before the date of the current conviction or the date of
- 1061 the offense upon which the current conviction is based; or
- 1062 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
- 1063 is less than \$500 and the theft is not an offense under Subsection (3)(c).

1064 Section 15. Section **76-6-608** is amended to read:

1065 **76-6-608 . Theft detection shielding devices prohibited.**

- 1066 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 1067 (2) An actor commits the unlawful shielding of a theft detection device if the actor
- 1068 knowingly:
- 1069 (a) makes or possesses any container or device used for, intended for use for, or
- 1070 represented as having the purpose of shielding merchandise from any electronic or
- 1071 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 1072 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any
- 1073 container or device intended for use for or represented as having the purpose of
- 1074 shielding merchandise from any electronic or magnetic theft alarm sensor;
- 1075 (c) possesses any tool or instrument designed to remove any theft detection device from
- 1076 any merchandise, with the intent to use the tool or instrument to remove any theft

1077 detection device from any merchandise without the permission of the merchant or the
1078 person owning or in possession of the merchandise; or

1079 (d) intentionally removes a theft detection device from merchandise prior to purchase
1080 and without the permission of the merchant.

1081 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.

1082 (b) A violation of Subsection (2)(d) is a:

1083 (i) class B misdemeanor if the retail value of the merchandise from which the theft
1084 detection device is removed is less than \$500; or

1085 (ii) class A misdemeanor if the retail value of the merchandise from which the theft
1086 detection device is removed is or exceeds \$500.

1087 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
1088 Theft, or Part 6, Retail Theft.

1089 (5) Criminal prosecutions under this section do not affect any person's right of civil action
1090 for redress for damages suffered as a result of any violation of this section.

1091 Section 16. Section **76-9-802** is amended to read:

1092 **76-9-802 . Definitions.**

1093 As used in this part:

1094 (1) "Criminal street gang" means an organization, association in fact, or group of three or
1095 more ~~[persons]~~ individuals, whether operated formally or informally:

1096 (a) that is currently in operation;

1097 (b) that has as one of its primary activities the commission of ~~[one or more predicate~~
1098 ~~gang crimes]~~ a criminal offense;

1099 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

1100 (d) whose members, acting individually or in concert with other members, engage in or
1101 have engaged in a pattern of criminal gang activity.

1102 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
1103 harm for the purpose of causing an individual to act or refrain from acting.

1104 (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.

1105 (4) "Pattern of criminal gang activity" means:

1106 (a) committing, attempting to commit, conspiring to commit, or soliciting the
1107 commission of two or more ~~[predicate gang crimes]~~ criminal offenses within five
1108 years;

1109 (b) the ~~[predicate gang crimes]~~ criminal offenses are:

1110 (i) committed by two or more ~~[persons]~~ individuals; or

1111 (ii) committed by an individual at the direction of, or in association with a criminal
 1112 street gang; and

1113 (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to
 1114 promote, further, or assist in any criminal conduct by members of the criminal street
 1115 gang.

1116 ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~

1117 ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~

1118 ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an
 1119 identification number;]~~

1120 ~~[(B) Section 41-1a-1315, regarding false evidence of title and registration;]~~

1121 ~~[(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]~~

1122 ~~[(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
 1123 identification number; or]~~

1124 ~~[(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
 1125 number;]~~

1126 ~~[(ii) any criminal violation of the following provisions:]~~

1127 ~~[(A) Title 58, Chapter 37, Utah Controlled Substances Act;]~~

1128 ~~[(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]~~

1129 ~~[(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]~~

1130 ~~[(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]~~

1131 ~~[(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]~~

1132 ~~[(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]~~

1133 ~~[(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
 1134 offenses;]~~

1135 ~~[(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]~~

1136 ~~[(vii) Title 76, Chapter 6, Part 1, Property Destruction;]~~

1137 ~~[(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]~~

1138 ~~[(ix) Title 76, Chapter 6, Part 3, Robbery;]~~

1139 ~~[(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,~~

1140 ~~Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407,~~

1141 ~~76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8,~~

1142 ~~76-6-409.9, 76-6-410, and 76-6-410.5;]~~

1143 ~~[(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,~~

1144 ~~76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,~~

- 1145 76-6-517, 76-6-518, and 76-6-520;]
- 1146 [(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]
- 1147 [(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
- 1148 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]
- 1149 [(xiv) tampering with a witness under Section 76-8-508;]
- 1150 [(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]
- 1151 [(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 1152 [(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]
- 1153 [(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the
- 1154 violation occurs at an official meeting;]
- 1155 [(xix) Title 76, Chapter 10, Part 3, Explosives;]
- 1156 [(xx) Title 76, Chapter 10, Part 5, Weapons;]
- 1157 [(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]
- 1158 [(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]
- 1159 [(xxiii) communications fraud under Section 76-10-1801;]
- 1160 [(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction
- 1161 Reporting Act; or]
- 1162 [(xxv) burglary of a research facility under Section 76-10-2002.]
- 1163 [(b) "Predicate gang crime" also includes:]
- 1164 [(i) any state or federal criminal offense that by its nature involves a substantial risk
- 1165 that physical force may be used against another in the course of committing the
- 1166 offense; and]
- 1167 [(ii) any felony violation of a criminal statute of any other state, the United States, or
- 1168 any district, possession, or territory of the United States which would constitute a
- 1169 violation of any offense in Subsection (4)(a) if committed in this state.]

1170 Section 17. Section **76-9-803** is amended to read:

1171 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
 1172 **criminal street gang.**

1173 [(1) It is a class B misdemeanor to:]

1174 [(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether

1175 or not the minor actually joins the criminal street gang;]

1176 [(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor

1177 to join a criminal street gang; or]

1178 [(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal

- 1179 street gang or ending the minor's affiliation with a criminal street gang.]
- 1180 [(2) It is a class A misdemeanor for any person who is a member of or actively involved
- 1181 with a criminal street gang to:]
- 1182 [(a) intimidate or otherwise cause a minor to commit or attempt to commit any
- 1183 misdemeanor criminal offense; or]
- 1184 [(b) commit a violation of Subsection (1)(a):]
- 1185 [(i) more than once;]
- 1186 [(ii) regarding the same minor; and]
- 1187 [(iii) within a period of 180 days.]
- 1188 [(3) Prosecution for any offense under this section does not prohibit prosecution for any
- 1189 other criminal offense.]
- 1190 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1191 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
- 1192 criminal street gang if the actor:
- 1193 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
- 1194 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a
- 1195 minor to join a criminal street gang.
- 1196 (3) A violation of Subsection (2) is:
- 1197 (a) a class A misdemeanor if the actor is a minor; or
- 1198 (b) a third degree felony if the actor is 18 years old or older.
- 1199 (4) It is not a defense to a prosecution under this section that the minor did not join the
- 1200 criminal street gang.
- 1201 Section 18. Section **76-9-803.1** is enacted to read:
- 1202 **76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to**
- 1203 **join a criminal street gang.**
- 1204 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1205 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to
- 1206 join a criminal street gang if, in the course of committing an offense under Section
- 1207 76-9-803, the offense:
- 1208 (a) involves the use of a dangerous weapon;
- 1209 (b) results in serious bodily injury to any individual; or
- 1210 (c) results in serious emotional distress to any individual.
- 1211 (3) A violation of Subsection (2) is:
- 1212 (a) a third degree felony if the actor is a minor; or

1213 (b) a second degree felony if the actor is 18 years old or older.

1214 (4) It is not a defense to a prosecution under this section that the minor did not join the
1215 criminal street gang.

1216 Section 19. Section **76-9-803.2** is enacted to read:

1217 **76-9-803.2 . Intimidating a minor to remain in a criminal street gang.**

1218 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

1219 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor
1220 intimidates a minor to prevent the minor from leaving a criminal street gang or ending
1221 the minor's affiliation with a criminal street gang.

1222 (3) A violation of Subsection (2) is:

1223 (a) a class A misdemeanor if the actor is a minor; or

1224 (b) a third degree felony if the actor is 18 years old or older.

1225 (4) It is not a defense to a prosecution under this section that the minor described in
1226 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1227 Section 20. Section **76-9-803.3** is enacted to read:

1228 **76-9-803.3 . Aggravated intimidating a minor to remain in a criminal street gang.**

1229 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

1230 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if,
1231 in the course of committing an offense under Section 76-9-803.2, the offense:

1232 (a) involves the use of a dangerous weapon;

1233 (b) results in serious bodily injury to any individual; or

1234 (c) results in serious emotional distress to any individual.

1235 (3) A violation of Subsection (2) is:

1236 (a) a third degree felony if the actor is a minor; or

1237 (b) a second degree felony if the actor is 18 years old or older.

1238 (4) It is not a defense to a prosecution under this section that the minor described in
1239 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1240 Section 21. Section **76-10-1302** is amended to read:

1241 **76-10-1302 . Prostitution.**

1242 (1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the
1243 actor engages in sexual activity with another individual for a fee, or the functional
1244 equivalent of a fee.

1245 (2)(a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of
1246 Subsection (1) is a class B misdemeanor.

- 1247 (b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time,~~
 1248 ~~and on all subsequent convictions, of a subsequent offense of prostitution under this~~
 1249 ~~section or] A violation of Subsection (1) is a class A misdemeanor if the actor has
 1250 previously been convicted of:~~
- 1251 (i) a violation of Subsection (1);
 - 1252 (ii) [~~under~~] a local ordinance adopted [~~under~~] in accordance with Section 76-10-1307[;
 1253 is guilty of a class A misdemeanor] addressing the same or similar type of
 1254 violation to the violation described in Subsection (1); or
 - 1255 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1256 court, that is substantially equivalent to the violation described in Subsection (1).
- 1257 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor
 1258 engages in a violation of Subsection (1) at or near the time the actor witnesses or is a
 1259 victim of any of the following offenses, or an attempt to commit any of the following
 1260 offenses, and the actor reports the offense or attempt to law enforcement in good faith:
- 1261 (a) assault, Section 76-5-102;
 - 1262 (b) aggravated assault, Section 76-5-103;
 - 1263 (c) mayhem, Section 76-5-105;
 - 1264 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
 1265 homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;
 - 1266 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
 1267 aggravated human trafficking, human smuggling or aggravated human smuggling, or
 1268 human trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and
 1269 Smuggling;
 - 1270 (f) rape, Section 76-5-402;
 - 1271 (g) rape of a child, Section 76-5-402.1;
 - 1272 (h) object rape, Section 76-5-402.2;
 - 1273 (i) object rape of a child, Section 76-5-402.3;
 - 1274 (j) forcible sodomy, Section 76-5-403;
 - 1275 (k) sodomy on a child, Section 76-5-403.1;
 - 1276 (l) forcible sexual abuse, Section 76-5-404;
 - 1277 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
 1278 Section 76-5-404.3;
 - 1279 (n) aggravated sexual assault, Section 76-5-405;
 - 1280 (o) sexual exploitation of a minor, Section 76-5b-201;

- 1281 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 1282 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 1283 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and
- 1284 Criminal Trespass;
- 1285 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or
- 1286 (t) theft by extortion under Section 76-6-406 under the circumstances described in
- 1287 Subsection 76-6-406(1)(a)(i) or (ii).

1288 *The following section is affected by a coordination clause at the end of this bill.*

1289 Section 22. Section **76-10-1303** is amended to read:

1290 **76-10-1303 . Patronizing a prostitute.**

- 1291 (1) An actor is guilty of patronizing a prostitute if the actor:
 - 1292 (a) pays or offers or agrees to pay a prostituted individual, or an individual the actor
 - 1293 believes to be a prostituted individual, a fee, or the functional equivalent of a fee, for
 - 1294 the purpose of engaging in an act of sexual activity; or
 - 1295 (b) enters or remains in a place of prostitution for the purpose of engaging in sexual
 - 1296 activity.
- 1297 [~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3),~~
- 1298 ~~(4), or (5) or Section 76-10-1309.]~~
- 1299 [~~(3) A violation of this section that is preceded by a conviction under this section or a~~
- 1300 ~~conviction under a local ordinance adopted under Section 76-10-1307 is a class A~~
- 1301 ~~misdemeanor.]~~
- 1302 [~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307~~
- 1303 ~~is a third degree felony.]~~
- 1304 (2)(a) Except as provided in Subsection (2)(b), (3), or Section 76-10-1309, a violation of
- 1305 Subsection (1) is a class A misdemeanor with a mandatory fine of not less than
- 1306 \$5,000.
- 1307 (b) A violation of Subsection (1) is a third degree felony, with a mandatory fine of not
- 1308 less than \$10,000, if the actor has previously been convicted two or more times of:
- 1309 (i) a violation of Subsection (1);
- 1310 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
- 1311 same or similar type of violation to the violation described in Subsection (1); or
- 1312 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
- 1313 court, that is substantially equivalent to the violation described in Subsection (1).
- 1314 [~~(5)] (3)(a) Except as provided in Subsection [~~(5)(d)] (3)(d), if the patronizing of a~~~~

1315 prostitute under Subsection (1)(a) involves a child as the other individual, a violation
 1316 of Subsection (1)(a) is a second degree felony with a mandatory fine of not less than
 1317 \$20,000.

1318 (b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under
 1319 Subsection [(5)(a)] (3)(a) that the actor mistakenly believed the individual to be 18
 1320 years old or older at the time of the offense or was unaware of the individual's true
 1321 age.

1322 (c) An actor's belief that the individual was under 18 years old at the time of the offense,
 1323 even if the individual was 18 years old or older, is a violation of Subsection [(5)(a)]
 1324 (3)(a).

1325 (d) If the act committed under Subsection [(5)(a)] (3)(a) amounts to an offense that is
 1326 subject to a greater penalty under another provision of state law than is provided
 1327 under Subsection [(5)(a)] (3)(a), this Subsection [(5)] (3) does not prohibit prosecution
 1328 and sentencing for the more serious offense.

1329 [(6)] (4) Upon a conviction for a violation of this section, the court shall order:

1330 (a) the maximum fine amount and may not waive or suspend the fine; and

1331 (b) the defendant to pay for and complete a court-approved educational program about
 1332 the negative effects on an individual involved with prostitution or human trafficking.

1333 Section 23. Section **76-10-1304** is amended to read:

1334 **76-10-1304 . Aiding prostitution.**

1335 (1) An individual is guilty of aiding prostitution if the individual:

1336 (a)(i) solicits an individual to patronize a prostitute, or to patronize an individual the
 1337 actor believes to be a prostitute;

1338 (ii) procures or attempts to procure a prostitute, or an individual the actor believes to
 1339 be a prostitute, for a patron;

1340 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
 1341 association with another, to be used for prostitution or the promotion of
 1342 prostitution; or

1343 (iv) provides any service or commits any act that enables another individual to
 1344 commit a violation of this Subsection (1)(a) or facilitates another individual's
 1345 ability to commit any violation of this Subsection (1)(a); or

1346 (b) solicits, receives, or agrees to receive any benefit for committing any of the acts
 1347 prohibited by Subsection (1)(a).

1348 [~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~

1349 ~~[(3) An individual who is convicted a second time, and on all subsequent convictions, under~~
 1350 ~~this section or under a local ordinance adopted in compliance with Section 76-10-1307~~
 1351 ~~is guilty of a third degree felony.]~~

1352 (2)(a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A
 1353 misdemeanor.

1354 (b) A violation of Subsection (1) is a third degree felony if the actor has previously been
 1355 convicted of:

1356 (i) a violation of Subsection (1);

1357 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
 1358 same or similar type of violation to the violation described in Subsection (1); or

1359 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1360 court, that is substantially equivalent to the violation described in Subsection (1).

1361 ~~[(4)] (3) Upon a conviction for a violation of this section, the court shall order [the~~
 1362 ~~maximum fine amount] a fine of not less than \$10,000 and may not waive or suspend the~~
 1363 ~~fine.~~

1364 Section 24. Section **76-10-1602** is amended to read:

1365 **76-10-1602 . Definitions.**

1366 As used in this part:

1367 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
 1368 business trust, association, or other legal entity, and any union or group of individuals
 1369 associated in fact although not a legal entity, and includes illicit as well as licit entities.

1370 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
 1371 commission of at least three episodes of unlawful activity, which episodes are not
 1372 isolated, but have the same or similar purposes, results, participants, victims, or methods
 1373 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
 1374 together, the episodes shall demonstrate continuing unlawful conduct and be related
 1375 either to each other or to the enterprise. At least one of the episodes comprising a
 1376 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
 1377 constituting part of a pattern of unlawful activity as defined by this part shall have
 1378 occurred within five years of the commission of the next preceding act alleged as part of
 1379 the pattern.

1380 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
 1381 interest in property, including state, county, and local governmental entities.

1382 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,

- 1383 encourage, or intentionally aid another person to engage in conduct which would
1384 constitute any offense described by the following crimes or categories of crimes, or to
1385 attempt or conspire to engage in an act which would constitute any of those offenses,
1386 regardless of whether the act is in fact charged or indicted by any authority or is
1387 classified as a misdemeanor or a felony:
- 1388 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
1389 Recording Practices Act;
 - 1390 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
1391 Code, Sections 19-1-101 through 19-7-109;
 - 1392 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
1393 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
1394 Section 23A-5-311;
 - 1395 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
1396 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 1397 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
1398 Offenses and Procedure Act;
 - 1399 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
1400 Uniform Land Sales Practices Act;
 - 1401 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
1402 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
1403 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
1404 Chapter 37d, Clandestine Drug Lab Act;
 - 1405 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
1406 Securities Act;
 - 1407 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
1408 Procurement Code;
 - 1409 (j) assault under Section 76-5-102;
 - 1410 (k) aggravated assault under Section 76-5-103;
 - 1411 (l) a threat of terrorism under Section 76-5-107.3;
 - 1412 (m) a criminal homicide offense under Section 76-5-201;
 - 1413 (n) kidnapping under Section 76-5-301;
 - 1414 (o) aggravated kidnapping under Section 76-5-302;
 - 1415 (p) human trafficking for labor under Section 76-5-308;
 - 1416 (q) human trafficking for sexual exploitation under Section 76-5-308.1;

- 1417 (r) human smuggling under Section 76-5-308.3;
- 1418 (s) human trafficking of a child under Section 76-5-308.5;
- 1419 (t) benefiting from trafficking and human smuggling under Section 76-5-309;
- 1420 (u) aggravated human trafficking under Section 76-5-310;
- 1421 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1422 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1423 (x) sexual extortion under Section 76-5b-204;
- 1424 [~~(x)~~] (y) arson under Section 76-6-102;
- 1425 [~~(y)~~] (z) aggravated arson under Section 76-6-103;
- 1426 [~~(z)~~] (aa) causing a catastrophe under Section 76-6-105;
- 1427 [~~(aa)~~] (bb) burglary under Section 76-6-202;
- 1428 [~~(bb)~~] (cc) aggravated burglary under Section 76-6-203;
- 1429 [~~(cc)~~] (dd) burglary of a vehicle under Section 76-6-204;
- 1430 [~~(dd)~~] (ee) manufacture or possession of an instrument for burglary or theft under Section
1431 76-6-205;
- 1432 [~~(ee)~~] (ff) robbery under Section 76-6-301;
- 1433 [~~(ff)~~] (gg) aggravated robbery under Section 76-6-302;
- 1434 [~~(gg)~~] (hh) theft under Section 76-6-404;
- 1435 [~~(hh)~~] (ii) theft by deception under Section 76-6-405;
- 1436 [~~(ii)~~] (jj) theft by extortion under Section 76-6-406;
- 1437 [~~(jj)~~] (kk) receiving stolen property under Section 76-6-408;
- 1438 [~~(kk)~~] (ll) theft of services under Section 76-6-409;
- 1439 [~~(ll)~~] (mm) forgery under Section 76-6-501;
- 1440 [~~(mm)~~] (nn) unlawful use of financial transaction card under Section 76-6-506.2;
- 1441 [~~(nn)~~] (oo) unlawful acquisition, possession, or transfer of financial transaction card
1442 under Section 76-6-506.3;
- 1443 [~~(oo)~~] (pp) financial transaction card offenses under Section 76-6-506.6;
- 1444 [~~(pp)~~] (qq) deceptive business practices under Section 76-6-507;
- 1445 [~~(qq)~~] (rr) bribery or receiving bribe by person in the business of selection, appraisal, or
1446 criticism of goods under Section 76-6-508;
- 1447 [~~(rr)~~] (ss) bribery of a labor official under Section 76-6-509;
- 1448 [~~(ss)~~] (tt) defrauding creditors under Section 76-6-511;
- 1449 [~~(tt)~~] (uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 1450 [~~(uu)~~] (vv) unlawful dealing with property by fiduciary under Section 76-6-513;

1451 [~~(vv)~~] (ww) bribery or threat to influence contest under Section 76-6-514;
 1452 [~~(ww)~~] (xx) making a false credit report under Section 76-6-517;
 1453 [~~(xx)~~] (yy) criminal simulation under Section 76-6-518;
 1454 [~~(yy)~~] (zz) criminal usury under Section 76-6-520;
 1455 [~~(zz)~~] (aaa) insurance fraud under Section 76-6-521;
 1456 [~~(aaa)~~] (bbb) retail theft under Section 76-6-602;
 1457 [~~(bbb)~~] (ccc) computer crimes under Section 76-6-703;
 1458 [~~(eee)~~] (ddd) identity fraud under Section 76-6-1102;
 1459 [~~(ddd)~~] (eee) mortgage fraud under Section 76-6-1203;
 1460 [~~(eee)~~] (fff) sale of a child under Section 76-7-203;
 1461 [~~(fff)~~] (ggg) bribery to influence official or political actions under Section 76-8-103;
 1462 [~~(ggg)~~] (hhh) threat to influence official or political action under Section 76-8-104;
 1463 [~~(hhh)~~] (iii) receiving bribe or bribery by public servant under Section 76-8-105;
 1464 [~~(iii)~~] (jjj) receiving bribe for endorsement of person as a public servant under Section
 1465 76-8-106;
 1466 [~~(jjj)~~] (kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
 1467 [~~(kkk)~~] (lll) official misconduct based on unauthorized act or failure of duty under Section
 1468 76-8-201;
 1469 [~~(lll)~~] (mmm) official misconduct concerning inside information under Section 76-8-202;
 1470 [~~(mmm)~~] (nnn) obstruction of justice in a criminal investigation or proceeding under
 1471 Section 76-8-306;
 1472 [~~(nnn)~~] (ooo) acceptance of bribe or bribery to prevent criminal prosecution under
 1473 Section 76-8-308;
 1474 [~~(ooo)~~] (ppp) harboring or concealing offender who has escaped from official custody
 1475 under Section 76-8-309.2;
 1476 [~~(ppp)~~] (qqq) making a false or inconsistent material statement under Section 76-8-502;
 1477 [~~(qqq)~~] (rrr) making a false or inconsistent statement under Section 76-8-503;
 1478 [~~(rrr)~~] (sss) making a written false statement under Section 76-8-504;
 1479 [~~(sss)~~] (ttt) tampering with a witness under Section 76-8-508;
 1480 [~~(ttt)~~] (uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 1481 [~~(uuu)~~] (vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 1482 [~~(vvv)~~] (www) extortion or bribery to dismiss a criminal proceeding under Section
 1483 76-8-509;
 1484 [~~(www)~~] (xxx) tampering with evidence under Section 76-8-510.5;

1485 [~~(xxx)~~] (yyy) falsification or alteration of a government record under Section 76-8-511, if
1486 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
1487 Lobbyist Disclosure and Regulation Act;

1488 [~~(yyy)~~] (zzz) public assistance fraud by an applicant for public assistance under Section
1489 76-8-1203.1;

1490 [~~(zzz)~~] (aaaa) public assistance fraud by a recipient of public assistance under Section
1491 76-8-1203.3;

1492 [~~(aaaa)~~] (bbbb) public assistance fraud by a provider under Section 76-8-1203.5;

1493 [~~(bbbb)~~] (cccc) fraudulently misappropriating public assistance funds under Section
1494 76-8-1203.7;

1495 [~~(eeee)~~] (dddd) false statement to obtain or increase unemployment compensation under
1496 Section 76-8-1301;

1497 [~~(dddd)~~] (eeee) false statement to prevent or reduce unemployment compensation or
1498 liability under Section 76-8-1302;

1499 [~~(eeee)~~] (ffff) unlawful failure to comply with Employment Security Act requirements
1500 under Section 76-8-1303;

1501 [~~(ffff)~~] (gggg) unlawful use or disclosure of employment information under Section
1502 76-8-1304;

1503 [~~(gggg)~~] (hhhh) intentionally or knowingly causing one animal to fight with another
1504 under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

1505 (iiii) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang
1506 under Section 76-9-803;

1507 (jjjj) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
1508 street gang under Section 76-9-803.1;

1509 (kkkk) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;

1510 (llll) aggravated intimidating a minor to remain in a criminal street gang under Section
1511 76-9-803.3;

1512 [~~(hhhh)~~] (mmmm) possession, use, or removal of explosives, chemical, or incendiary
1513 devices or parts under Section 76-10-306;

1514 [~~(iiii)~~] (nnnn) delivery to common carrier, mailing, or placement on premises of an
1515 incendiary device under Section 76-10-307;

1516 [~~(jjjj)~~] (oooo) possession of a deadly weapon with intent to assault under Section
1517 76-10-507;

1518 [~~(kkkk)~~] (pppp) unlawful marking of pistol or revolver under Section 76-10-521;

1519 [~~(HHH)~~] (qqqq) alteration of number or mark on pistol or revolver under Section 76-10-522;
 1520 [~~(mmmm)~~] (rrrr) forging or counterfeiting trademarks, trade name, or trade device under
 1521 Section 76-10-1002;
 1522 [~~(nnnn)~~] (ssss) selling goods under counterfeited trademark, trade name, or trade devices
 1523 under Section 76-10-1003;
 1524 [~~(oooo)~~] (tttt) sales in containers bearing registered trademark of substituted articles
 1525 under Section 76-10-1004;
 1526 [~~(pppp)~~] (uuuu) selling or dealing with article bearing registered trademark or service
 1527 mark with intent to defraud under Section 76-10-1006;
 1528 [~~(qqqq)~~] (vvvv) gambling under Section 76-10-1102;
 1529 [~~(rrrr)~~] (wwww) gambling fraud under Section 76-10-1103;
 1530 [~~(ssss)~~] (xxxx) gambling promotion under Section 76-10-1104;
 1531 [~~(tttt)~~] (yyyy) possessing a gambling device or record under Section 76-10-1105;
 1532 [~~(uuuu)~~] (zzzz) confidence game under Section 76-10-1109;
 1533 [~~(vvvv)~~] (aaaa) distributing pornographic material under Section 76-10-1204;
 1534 [~~(wwww)~~] (bbbb) inducing acceptance of pornographic material under Section
 1535 76-10-1205;
 1536 [~~(xxxx)~~] (cccc) dealing in harmful material to a minor under Section 76-10-1206;
 1537 [~~(yyyy)~~] (dddd) distribution of pornographic films under Section 76-10-1222;
 1538 [~~(zzzz)~~] (eeee) indecent public displays under Section 76-10-1228;
 1539 [~~(aaaa)~~] (ffff) prostitution under Section 76-10-1302;
 1540 [~~(bbbb)~~] (gggg) aiding prostitution under Section 76-10-1304;
 1541 [~~(eeee)~~] (hhhh) exploiting prostitution under Section 76-10-1305;
 1542 [~~(dddd)~~] (iiii) aggravated exploitation of prostitution under Section 76-10-1306;
 1543 [~~(eeee)~~] (jjjj) communications fraud under Section 76-10-1801;
 1544 [~~(ffff)~~] (kkkk) an act prohibited by the criminal provisions of Part 19, Money
 1545 Laundering and Currency Transaction Reporting Act;
 1546 [~~(gggg)~~] (llll) vehicle compartment for contraband under Section 76-10-2801;
 1547 [~~(hhhh)~~] (mmmm) an act prohibited by the criminal provisions of the laws governing
 1548 taxation in this state; or
 1549 [~~(iiii)~~] (nnnn) an act illegal under the laws of the United States and enumerated in 18
 1550 U.S.C. [See.] Secs. 1961(1)(B), (C), and (D).
 1551 Section 25. Section **78B-6-1101** is amended to read:
 1552 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**

- 1553 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
1554 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
1555 of life or property. A nuisance may be the subject of an action.
- 1556 (2) A nuisance may include the following:
- 1557 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
 - 1558 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
 - 1559 (c) criminal activity committed in concert with [~~three~~] two or more [~~persons~~] individuals
1560 as provided in Section 76-3-203.1;
 - 1561 (d) criminal activity committed for the benefit of, at the direction of, or in association
1562 with any criminal street gang as defined in Section 76-9-802;
 - 1563 (e) criminal activity committed to gain recognition, acceptance, membership, or
1564 increased status with a criminal street gang as defined in Section 76-9-802;
 - 1565 (f) party houses that frequently create conditions defined in Subsection (1); and
1566 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1567 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
1568 person rents, leases, or owns, from another residential or commercial unit and the smoke:
- 1569 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
1570 (b) creates any of the conditions under Subsection (1).
- 1571 (4) Subsection (3) does not apply to:
- 1572 (a) a residential rental unit available for temporary rental, such as for a vacation, or
1573 available for only 30 or fewer days at a time; or
1574 (b) a hotel or motel room.
- 1575 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
1576 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
1577 57-19-2.
- 1578 (6) An action may be brought by a person whose property is injuriously affected, or whose
1579 personal enjoyment is lessened by the nuisance.
- 1580 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
1581 44, Agricultural Operations Nuisances Act.
- 1582 (8) "Critical infrastructure materials operations" means the same as that term is defined in
1583 Section 10-9a-901.
- 1584 (9) "Manufacturing facility" means a factory, plant, or other facility including its
1585 appurtenances, where the form of raw materials, processed materials, commodities, or
1586 other physical objects is converted or otherwise changed into other materials,

1587 commodities, or physical objects or where such materials, commodities, or physical
 1588 objects are combined to form a new material, commodity, or physical object.

1589 Section 26. Section **78B-6-1107** is amended to read:

1590 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
 1591 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**

1592 (1) Every building or place is a nuisance where:

1593 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
 1594 acquisition occurs of any controlled substance, precursor, or analog specified in Title
 1595 58, Chapter 37, Utah Controlled Substances Act;

1596 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
 1597 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
 1598 defined in Subsection 78B-6-1101(1);

1599 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals
 1600 as provided in Section 76-3-203.1;

1601 (d) criminal activity is committed for the benefit of, at the direction of, or in association
 1602 with any criminal street gang as defined in Section 76-9-802;

1603 (e) criminal activity is committed to gain recognition, acceptance, membership, or
 1604 increased status with a criminal street gang as defined in Section 76-9-802;

1605 (f) parties occur frequently which create the conditions of a nuisance as defined in
 1606 Subsection 78B-6-1101(1);

1607 (g) prostitution or promotion of prostitution is regularly carried on by one or more
 1608 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

1609 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

1610 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
 1611 defendant is lawfully entitled to possession of a controlled substance.

1612 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
 1613 nuisance as defined in Subsection (1).

1614 Section 27. **Effective Date.**

1615 This bill takes effect on May 7, 2025.

1616 Section 29. **Coordinating H.B. 38 with H.B. 22 and H.B. 21 if all pass and become law.**

1617 If H.B. 38, Criminal Offenses Modifications, H.B. 22, Prostitution Offense

1618 Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and

1619 become law, the Legislature intends that, on May 7, 2025:

1620 (1) the changes to Section 76-10-1303 in H.B. 38 not be made;

1621 (2) Subsection 76-5d-203(3) in H.B. 21 and H.B. 22 be amended to read:

1622 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
1623 class A misdemeanor.

1624 (b) A violation of Subsection (2) is a third degree felony if the actor has
1625 previously been convicted two or more times of:

1626 (i) a violation of Subsection (2);

1627 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing
1628 the same or similar type of violation to the violation described in Subsection (2); or

1629 (iii) a criminal violation in another jurisdiction, including a state, federal, or
1630 military court, that is substantially equivalent to the violation described in Subsection (2).";

1631 (3) Section 76-5d-204, enacted in H.B. 22, supersede Section 76-5d-204, enacted in
1632 H.B. 21; and

1633 (4) Subsection 76-5d-204(3)(a), enacted in H.B. 22 and H.B. 21, be amended to read:

1634 "(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1635 degree felony with a mandatory fine of not less than \$20,000."

1636 Section 30. **Coordinating H.B. 38 with H.B. 21.**

1637 If H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code
1638 Recodification and Cross References, both pass and become law, the Legislature intends that,
1639 on May 7, 2025, the amendments to Section 76-9-803 in H.B. 38 supersede the amendments to
1640 that section in H.B. 21.