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Child Abuse and Torture Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Don L. Ipson
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill concerns child abuse and torture.

Highlighted Provisions:

This bill:

- ▶ creates a new criminal offense for child torture and provides penalties;
- ▶ adds the offense of child torture to the list of offenses for which imprisonment is mandatory;
- ▶ amends existing definitions relating to the offenses of child abuse and aggravated criminal child abuse;
- ▶ modifies child abandonment, abuse or neglect of a child with a disability, and other statutes that rely on certain definitions concerning criminal child abuse;
- ▶ includes the offense of child torture in statutes that reference child abuse or aggravated child abuse, including statutes concerning background checks, murder and aggravated murder, child abuse homicide, bigamy, jail release agreements and orders, and adoption, parent-time, and custody statutes;
- ▶ adds the offense of child torture to the definition of "violent felony";
- ▶ includes the offense of child torture as a registrable offense on the Sex, Kidnap, and Child Abuse Offender Registry;
- ▶ modifies the definition of "severe type of child abuse or neglect" in the juvenile code to refer to the amended definition of serious injury in the criminal child abuse statute;
- ▶ adds coordination clauses:
 - to merge the changes to Section 76-3-406 if both this bill and H.B. 78, Criminal Offenses Amendments, both pass and become law;
 - to merge the changes to Section 77-41-102 in this bill if this bill, S.B. 41, Sex, Kidnap,

28 and Child Abuse Offender Registry Amendments, both pass and become law, and
29 H.B. 21, Criminal Code Recodification and Cross References, does not pass and
30 become law, due to Section 77-41-102 being repealed and replaced with newly
31 enacted statutes in S.B. 41; and

32 • to merge the changes to Section 77-41-102 in this bill if this bill, S.B. 41, Sex, Kidnap,
33 and Child Abuse Offender Registry Amendments, and H.B. 21, Criminal Code
34 Recodification and Cross References, all pass and become law, due to Section
35 77-41-102 being repealed and replaced with newly enacted statutes in S.B. 41; and

36 ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill provides coordination clauses.

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **26B-2-120**, as last amended by Laws of Utah 2024, Chapter 234

44 **53G-6-204**, as last amended by Laws of Utah 2024, Chapters 113, 386

45 **76-2-401**, as last amended by Laws of Utah 2022, Chapter 181

46 **76-3-203.5**, as last amended by Laws of Utah 2024, Chapters 96, 179

47 **76-3-406**, as last amended by Laws of Utah 2024, Chapter 96

48 **76-5-109**, as last amended by Laws of Utah 2022, Chapters 181, 335

49 **76-5-109.2**, as enacted by Laws of Utah 2022, Chapter 181

50 **76-5-109.3**, as last amended by Laws of Utah 2024, Chapter 225

51 **76-5-110**, as last amended by Laws of Utah 2022, Chapter 181

52 **76-5-202**, as last amended by Laws of Utah 2022, Chapter 181

53 **76-5-203**, as last amended by Laws of Utah 2024, Chapters 96, 187

54 **76-5-208**, as last amended by Laws of Utah 2023, Chapter 111

55 **76-7-101**, as last amended by Laws of Utah 2022, Chapter 181

56 **77-41-102**, as last amended by Laws of Utah 2024, Chapter 234

57 **78B-6-117**, as last amended by Laws of Utah 2022, Chapters 185, 430

58 **78B-7-801**, as last amended by Laws of Utah 2023, Chapter 114

59 **80-1-102**, as last amended by Laws of Utah 2024, Chapter 256

60 **81-9-202**, as renumbered and amended by Laws of Utah 2024, Chapter 366

61 **81-9-207**, as renumbered and amended by Laws of Utah 2024, Chapter 366

62 **81-9-208**, as renumbered and amended by Laws of Utah 2024, Chapter 366

63 **81-9-402**, as renumbered and amended by Laws of Utah 2024, Chapter 366

64 ENACTS:

65 **76-5-109.4**, Utah Code Annotated 1953

66 **Utah Code Sections affected by Coordination Clause:**

67 **76-3-406**, as last amended by Laws of Utah 2024, Chapter 96



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

70 Section 1. Section **26B-2-120** is amended to read:

71 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

72 (1) As used in this section:

73 (a)(i) "Applicant" means an individual who is associated with a certification,

74 contract, or licensee with the department under this part and has direct access,

75 including:

76 (A) an adoptive parent or prospective adoptive parent, including an applicant for
77 an adoption in accordance with Section 78B-6-128;

78 (B) a foster parent or prospective foster parent;

79 (C) an individual who provides respite care to a foster parent or an adoptive parent
80 on more than one occasion;

81 (D) an individual who transports a child for a youth transportation company;

82 (E) an individual who provides certified peer support, as defined in Section
83 26B-5-610;

84 (F) an individual who provides peer supports, has a disability or a family member
85 with a disability, or is in recovery from a mental illness or a substance use
86 disorder;

87 (G) an individual who has lived experience with the services provided by the
88 department, and uses that lived experience to provide support, guidance, or
89 services to promote resiliency and recovery;

90 (H) an individual who is identified as a mental health professional, licensed under
91 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in
92 the practice of mental health therapy, as defined in Section 58-60-102;

93 (I) an individual, other than the child or vulnerable adult receiving the service,
94 who is 12 years old or older and resides in a home, that is licensed or certified
95 by the division;

- 96 (J) an individual who is 12 years old or older and is associated with a certification,
97 contract, or licensee with the department under this part and has or will likely
98 have direct access;
- 99 (K) a foster home licensee that submits an application for an annual background
100 screening as required by Subsection 26B-2-105(4)(d)(iii); or
- 101 (L) a short-term relief care provider.
- 102 (ii) "Applicant" does not include:
- 103 (A) an individual who is in the custody of the Division of Child and Family
104 Services or the Division of Juvenile Justice and Youth Services;
- 105 (B) an individual who applies for employment with, or is employed by, the
106 Department of Health and Human Services;
- 107 (C) a parent of a person receiving services from the Division of Services for
108 People with Disabilities, if the parent provides direct care to and resides with
109 the person, including if the parent provides direct care to and resides with the
110 person pursuant to a court order; or
- 111 (D) an individual or a department contractor who provides services in an adults
112 only substance use disorder program, as defined by rule adopted by the
113 Department of Health and Human Services in accordance with Title 63G,
114 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
115 director or a member, as defined by Section 26B-2-105, of the program.
- 116 (b) "Application" means a background check application to the office.
- 117 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
118 Public Safety, created in Section 53-10-201.
- 119 (d) "Criminal finding" means a record of:
- 120 (i) an arrest for a criminal offense;
- 121 (ii) a warrant for a criminal arrest;
- 122 (iii) charges for a criminal offense; or
- 123 (iv) a criminal conviction.
- 124 (e) "Direct access" means that an individual has, or likely will have:
- 125 (i) contact with or access to a child or vulnerable adult by which the individual will
126 have the opportunity for personal communication or touch with the child or
127 vulnerable adult; or
- 128 (ii) an opportunity to view medical, financial, or other confidential personal
129 identifying information of the child, the child's parent or legal guardian, or the

- 130 vulnerable adult.
- 131 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
132 by the office within the license and renewal time period; and
- 133 (ii) no more than 180 days have passed since the date on which the applicant's
134 association with a certification, contract, or licensee with the department expires.
- 135 (g) "Incidental care" means occasional care, not in excess of five hours per week and
136 never overnight, for a foster child.
- 137 (h) "Licensee" means an individual or a human services program licensed by the
138 division.
- 139 (i) "Non-criminal finding" means a record maintained in:
- 140 (i) the Division of Child and Family Services' Management Information System
141 described in Section 80-2-1001;
- 142 (ii) the Division of Child and Family Services' Licensing Information System
143 described in Section 80-2-1002;
- 144 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
145 exploitation database described in Section 26B-6-210;
- 146 (iv) juvenile court arrest, adjudication, and disposition records;
- 147 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77,
148 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
149 offender registry; or
- 150 (vi) a state child abuse or neglect registry.
- 151 (j) "Office" means the Office of Background Processing within the department.
- 152 (k) "Personal identifying information" means:
- 153 (i) current name, former names, nicknames, and aliases;
- 154 (ii) date of birth;
- 155 (iii) physical address and email address;
- 156 (iv) telephone number;
- 157 (v) driver license or other government-issued identification;
- 158 (vi) social security number;
- 159 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
160 specified by the office; and
- 161 (viii) other information specified by the office by rule made in accordance with Title
162 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 163 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the

- 164 following to the office:
- 165 (a) personal identifying information;
- 166 (b) a fee established by the office under Section 63J-1-504;
- 167 (c) a disclosure form, specified by the office, for consent for:
- 168 (i) an initial background check upon association with a certification, contract, or
- 169 licensee with the department;
- 170 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 171 certification, contract, or licensee with the department for 180 days;
- 172 (iii) a background check when the office determines that reasonable cause exists; and
- 173 (iv) retention of personal identifying information, including fingerprints, for
- 174 monitoring and notification as described in Subsections (3)(c) and (4);
- 175 (d) if an applicant resided outside of the United States and its territories during the five
- 176 years immediately preceding the day on which the information described in
- 177 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
- 178 whether the applicant was convicted of a crime during the time that the applicant
- 179 resided outside of the United States or its territories; and
- 180 (e) an application showing an applicant's association with a certification, contract, or a
- 181 licensee with the department, for the purpose of the office tracking the direct access
- 182 qualified status of the applicant, which expires 180 days after the date on which the
- 183 applicant is no longer associated with a certification, contract, or a licensee with the
- 184 department.
- 185 (3) The office:
- 186 (a) shall perform the following duties as part of a background check of an applicant
- 187 before the office grants or denies direct access qualified status to an applicant:
- 188 (i) check state and regional criminal background databases for the applicant's
- 189 criminal history by:
- 190 (A) submitting personal identifying information to the bureau for a search; or
- 191 (B) using the applicant's personal identifying information to search state and
- 192 regional criminal background databases as authorized under Section 53-10-108;
- 193 (ii) submit the applicant's personal identifying information and fingerprints to the
- 194 bureau for a criminal history search of applicable national criminal background
- 195 databases;
- 196 (iii) search the Division of Child and Family Services' Licensing Information System
- 197 described in Section 80-2-1002;

- 198 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title
199 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national
200 sex offender registry for an applicant 18 years old or older;
- 201 (v) if the applicant is associated with a licensee for a prospective foster or adoptive
202 parent, search the Division of Child and Family Services' Management
203 Information System described in Section 80-2-1001;
- 204 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
205 or exploitation database described in Section 26B-6-210;
- 206 (vii) search the juvenile court records for substantiated findings of severe child abuse
207 or neglect described in Section 80-3-404; and
- 208 (viii) search the juvenile court arrest, adjudication, and disposition records, as
209 provided under Section 78A-6-209;
- 210 (b) may conduct all or portions of a background check in connection with determining
211 whether an applicant is direct access qualified, as provided by rule, made by the
212 office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
213 (i) for an annual renewal; or
214 (ii) when the office determines that reasonable cause exists;
- 215 (c) may submit an applicant's personal identifying information, including fingerprints, to
216 the bureau for checking, retaining, and monitoring of state and national criminal
217 background databases and for notifying the office of new criminal activity associated
218 with the applicant;
- 219 (d) shall track the status of an applicant under this section to ensure that the applicant is
220 not required to duplicate the submission of the applicant's fingerprints if the applicant
221 is associated with more than one certification, contract, or licensee with the
222 department;
- 223 (e) shall notify the bureau when a direct access qualified individual has not been
224 associated with a certification, contract, or licensee with the department for a period
225 of 180 days;
- 226 (f) shall adopt measures to strictly limit access to personal identifying information solely
227 to the individuals responsible for processing and entering the applications for
228 background checks and to protect the security of the personal identifying information
229 the office reviews under this Subsection (3);
- 230 (g) as necessary to comply with the federal requirement to check a state's child abuse
231 and neglect registry regarding any applicant working in a congregate care program,

- 232 shall:
- 233 (i) search the Division of Child and Family Services' Licensing Information System
- 234 described in Section 80-2-1002; and
- 235 (ii) require the child abuse and neglect registry be checked in each state where an
- 236 applicant resided at any time during the five years immediately preceding the day
- 237 on which the application is submitted to the office; and
- 238 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 239 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
- 240 background checks.
- 241 (4)(a) With the personal identifying information the office submits to the bureau under
- 242 Subsection (3), the bureau shall check against state and regional criminal background
- 243 databases for the applicant's criminal history.
- 244 (b) With the personal identifying information and fingerprints the office submits to the
- 245 bureau under Subsection (3), the bureau shall check against national criminal
- 246 background databases for the applicant's criminal history.
- 247 (c) Upon direction from the office, and with the personal identifying information and
- 248 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 249 (i) maintain a separate file of the fingerprints for search by future submissions to the
- 250 local and regional criminal records databases, including latent prints; and
- 251 (ii) monitor state and regional criminal background databases and identify criminal
- 252 activity associated with the applicant.
- 253 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
- 254 Investigation Next Generation Identification System, to be retained in the Federal
- 255 Bureau of Investigation Next Generation Identification System for the purpose of:
- 256 (i) being searched by future submissions to the national criminal records databases,
- 257 including the Federal Bureau of Investigation Next Generation Identification
- 258 System and latent prints; and
- 259 (ii) monitoring national criminal background databases and identifying criminal
- 260 activity associated with the applicant.
- 261 (e) The [Bureau] bureau shall notify and release to the office all information of criminal
- 262 activity associated with the applicant.
- 263 (f) Upon notice that an individual who has direct access qualified status will no longer
- 264 be associated with a certification, contract, or licensee with the department, the
- 265 bureau shall:

- 266 (i) discard and destroy any retained fingerprints; and
267 (ii) notify the Federal Bureau of Investigation when the license has expired or an
268 individual's direct access to a child or a vulnerable adult has ceased, so that the
269 Federal Bureau of Investigation will discard and destroy the retained fingerprints
270 from the Federal Bureau of Investigation Next Generation Identification System.
- 271 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access
272 qualified status to an applicant who, within three years from the date on which the
273 office conducts the background check, was convicted of:
- 274 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
275 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
276 cruelty to animals, or bestiality;
277 (B) a violation of any pornography law, including sexual exploitation of a minor
278 or aggravated sexual exploitation of a minor;
279 (C) sexual solicitation or prostitution;
280 (D) a violent offense committed in the presence of a child, as described in Section
281 76-3-203.10;
282 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
283 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
284 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
285 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
286 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
287 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass
288 Destruction;
289 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
290 Injunctions;
291 (L) aggravated arson, as described in Section 76-6-103;
292 (M) aggravated burglary, as described in Section 76-6-203;
293 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
294 (O) aggravated robbery, as described in Section 76-6-302;
295 (P) endangering persons in a human services program, as described in Section
296 26B-2-113;
297 (Q) failure to report, as described in Section 80-2-609;
298 (R) identity fraud crime, as described in Section 76-6-1102;
299 (S) leaving a child unattended in a motor vehicle, as described in Section

- 300 76-10-2202;
- 301 (T) riot, as described in Section 76-9-101;
- 302 (U) sexual battery, as described in Section 76-9-702.1; or
- 303 (V) threatening with or using a dangerous weapon in a fight or quarrel, as
- 304 described in Section 76-10-506; or
- 305 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
- 306 in the state, would constitute a violation of an offense described in Subsection
- 307 (5)(a)(i).
- 308 (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
- 309 peer support provider or a mental health professional, if the applicant provides
- 310 services in a program that serves only adults with a primary mental health
- 311 diagnosis, with or without a co-occurring substance use disorder.
- 312 (ii) The office shall conduct a comprehensive review of an applicant described in
- 313 Subsection (5)(b)(i) in accordance with Subsection (7).
- 314 (c) The office shall deny direct access qualified status to an applicant if the office finds
- 315 that a court order prohibits the applicant from having direct access to a child or
- 316 vulnerable adult.
- 317 (6) The office shall conduct a comprehensive review of an applicant's background check if
- 318 the applicant:
- 319 (a) has a felony or class A misdemeanor conviction that is more than three years from
- 320 the date on which the office conducts the background check, for an offense described
- 321 in Subsection (5)(a);
- 322 (b) has a felony charge or conviction that is no more than 10 years from the date on
- 323 which the office conducts the background check for an offense not described in
- 324 Subsection (5)(a);
- 325 (c) has a felony charge or conviction that is more than 10 years from the date on which
- 326 the office conducts the background check, for an offense not described in Subsection
- 327 (5)(a), with criminal or non-criminal findings after the date of the felony charge or
- 328 conviction;
- 329 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than
- 330 three years and no more than 10 years from the date on which the office conducts the
- 331 background check for an offense described in Subsection (5)(a);
- 332 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
- 333 years from the date on which the office conducts the background check, for an

- 334 offense described in Subsection (5)(a), with criminal or non-criminal findings after
335 the date of conviction;
- 336 (f) has a misdemeanor charge or conviction that is no more than three years from the
337 date on which the office conducts the background check for an offense not described
338 in Subsection (5)(a);
- 339 (g) has a misdemeanor charge or conviction that is more than three years from the date
340 on which the office conducts the background check, for an offense not described in
341 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
342 conviction;
- 343 (h) is currently subject to a plea in abeyance or diversion agreement for an offense
344 described in Subsection (5)(a);
- 345 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title
346 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
347 offender registry;
- 348 (j) has a record of an adjudication in juvenile court for an act that, if committed by an
349 adult, would be a felony or misdemeanor, if the applicant is:
- 350 (i) under 28 years old; or
351 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
352 currently subject to a plea in abeyance or diversion agreement for a felony or a
353 misdemeanor offense described in Subsection (5)(a);
- 354 (k) has a pending charge for an offense described in Subsection (5)(a);
- 355 (l) has a listing that occurred no more than 15 years from the date on which the office
356 conducts the background check in the Division of Child and Family Services'
357 Licensing Information System described in Section ;
- 358 (m) has a listing that occurred more than 15 years from the date on which the office
359 conducts the background check in the Division of Child and Family Services'
360 Licensing Information System described in Section 80-2-1002, with criminal or
361 non-criminal findings after the date of the listing;
- 362 (n) has a listing that occurred no more than 15 years from the date on which the office
363 conducts the background check in the Division of Aging and Adult Services'
364 vulnerable adult abuse, neglect, or exploitation database described in Section
365 26B-6-210;
- 366 (o) has a listing that occurred more than 15 years from the date on which the office
367 conducts the background check in the Division of Aging and Adult Services'

- 368 vulnerable adult abuse, neglect, or exploitation database described in Section
369 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 370 (p) has a substantiated finding that occurred no more than 15 years from the date on
371 which the office conducts the background check of severe child abuse or neglect
372 under Section 80-3-404 or 80-3-504[-]; or
- 373 (q) has a substantiated finding that occurred more than 15 years from the date on which
374 the office conducts the background check of severe child abuse or neglect under
375 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
376 the listing.
- 377 (7)(a) The comprehensive review shall include an examination of:
- 378 (i) the date of the offense or incident;
- 379 (ii) the nature and seriousness of the offense or incident;
- 380 (iii) the circumstances under which the offense or incident occurred;
- 381 (iv) the age of the perpetrator when the offense or incident occurred;
- 382 (v) whether the offense or incident was an isolated or repeated incident;
- 383 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
384 adult, including:
- 385 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 386 (B) sexual abuse;
- 387 (C) sexual exploitation; or
- 388 (D) negligent treatment;
- 389 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
390 treatment received, or additional academic or vocational schooling completed;
- 391 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
392 which the applicant is applying; and
- 393 (ix) if the background check of an applicant is being conducted for the purpose of
394 giving direct access qualified status to an applicant seeking a position in a
395 congregate care program or to become a prospective foster or adoptive parent, any
396 listing in the Division of Child and Family Services' Management Information
397 System described in Section 80-2-1001.
- 398 (b) At the conclusion of the comprehensive review, the office shall deny direct access
399 qualified status to an applicant if the office finds the approval would likely create a
400 risk of harm to a child or vulnerable adult.
- 401 (8) The office shall grant direct access qualified status to an applicant who is not denied

- 402 under this section.
- 403 (9)(a) The office may conditionally grant direct access qualified status to an applicant,
404 for a maximum of 60 days after the day on which the office sends written notice,
405 without requiring that the applicant be directly supervised, if the office:
- 406 (i) is awaiting the results of the criminal history search of national criminal
407 background databases; and
 - 408 (ii) would otherwise grant direct access qualified status to the applicant under this
409 section.
- 410 (b) The office may conditionally grant direct access qualified status to an applicant, for a
411 maximum of one year after the day on which the office sends written notice, without
412 requiring that the applicant be directly supervised if the office:
- 413 (i) is awaiting the results of an out-of-state registry for providers other than foster and
414 adoptive parents; and
 - 415 (ii) would otherwise grant direct access qualified status to the applicant under this
416 section.
- 417 (c) Upon receiving the results of the criminal history search of a national criminal
418 background database, the office shall grant or deny direct access qualified status to
419 the applicant in accordance with this section.
- 420 (10)(a) Each time an applicant is associated with a licensee, the department shall review
421 the current status of the applicant's background check to ensure the applicant is still
422 eligible for direct access qualified status in accordance with this section.
- 423 (b) A licensee may not permit an individual to have direct access to a child or a
424 vulnerable adult without being directly supervised unless:
- 425 (i) the individual is the parent or guardian of the child, or the guardian of the
426 vulnerable adult;
 - 427 (ii) the individual is approved by the parent or guardian of the child, or the guardian
428 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
 - 429 (iii) the individual is only permitted to have direct access to a vulnerable adult who
430 voluntarily invites the individual to visit; or
 - 431 (iv) the individual only provides incidental care for a foster child on behalf of a foster
432 parent who has used reasonable and prudent judgment to select the individual to
433 provide the incidental care for the foster child.
- 434 (c) Notwithstanding any other provision of this section, an applicant who is denied direct
435 access qualified status shall not have direct access to a child or vulnerable adult

- 436 unless the office grants direct access qualified status to the applicant through a
437 subsequent application in accordance with this section.
- 438 (11) If the office denies direct access qualified status to an applicant, the applicant may
439 request a hearing in the department's Office of Administrative Hearings to challenge the
440 office's decision.
- 441 (12)(a) This Subsection (12) applies to an applicant associated with a certification,
442 contract, or licensee serving adults only.
- 443 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
444 shall comply with this section.
- 445 (c) The office shall conduct a comprehensive review for an applicant if:
- 446 (i) the applicant is seeking a position:
- 447 (A) as a peer support provider;
- 448 (B) as a mental health professional; or
- 449 (C) in a program that serves only adults with a primary mental health diagnosis,
450 with or without a co-occurring substance use disorder; and
- 451 (ii) within three years from the date on which the office conducts the background
452 check, the applicant has a felony or misdemeanor charge or conviction or a
453 non-criminal finding.
- 454 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate
455 care program, an applicant seeking to provide a prospective foster home, an applicant
456 seeking to provide a prospective adoptive home, and each adult living in the home of
457 the prospective foster or prospective adoptive home.
- 458 (b) As federally required, the office shall:
- 459 (i) check the child abuse and neglect registry in each state where each applicant
460 resided in the five years immediately preceding the day on which the applicant
461 applied to be a foster or adoptive parent, to determine whether the prospective
462 foster or adoptive parent is listed in the registry as having a substantiated or
463 supported finding of child abuse or neglect; and
- 464 (ii) except for applicants seeking a position in a congregate care program, check the
465 child abuse and neglect registry in each state where each adult living in the home
466 of the prospective foster or adoptive home resided in the five years immediately
467 preceding the day on which the applicant applied to be a foster or adoptive parent,
468 to determine whether the adult is listed in the registry as having a substantiated or
469 supported finding of child abuse or neglect.

- 470 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
471 (i) federal law or rule permits otherwise; or
472 (ii) the requirements would prohibit the Division of Child and Family Services or a
473 court from placing a child with:
474 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
475 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
476 or 80-3-303, pending completion of the background check described in
477 Subsections (5), (6), and (7).
- 478 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
479 qualified status if the applicant has been convicted of:
480 (i) a felony involving conduct that constitutes any of the following:
481 (A) child abuse, as described in ~~[Sections]~~ Section 76-5-109;
482 (B) ~~[-, 76-5-109.2, and -]~~ aggravated child abuse, as described in Section 76-5-109.2;
483 (C) child abandonment, as described in Section 76-5-109.3;
484 (D) child torture, as described in Section 76-5-109.4;
485 ~~[(B)]~~ (E) commission of domestic violence in the presence of a child, as described
486 in Section 76-5-114;
487 ~~[(C)]~~ (F) abuse or neglect of a child with a disability, as described in Section
488 76-5-110;
489 ~~[(D)]~~ (G) intentional aggravated abuse of a vulnerable adult, as described in
490 Section 76-5-111;
491 ~~[(E)]~~ (H) endangerment of a child or vulnerable adult, as described in Section
492 76-5-112.5;
493 ~~[(F)]~~ (I) aggravated murder, as described in Section 76-5-202;
494 ~~[(G)]~~ (J) murder, as described in Section 76-5-203;
495 ~~[(H)]~~ (K) manslaughter, as described in Section 76-5-205;
496 ~~[(I)]~~ (L) child abuse homicide, as described in Section 76-5-208;
497 ~~[(J)]~~ (M) homicide by assault, as described in Section 76-5-209;
498 ~~[(K)]~~ (N) kidnapping, as described in Section 76-5-301;
499 ~~[(L)]~~ (O) child kidnapping, as described in Section 76-5-301.1;
500 ~~[(M)]~~ (P) aggravated kidnapping, as described in Section 76-5-302;
501 ~~[(N)]~~ (Q) human trafficking of a child, as described in Section 76-5-308.5;
502 ~~[(O)]~~ (R) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
503 ~~[(P)]~~ (S) sexual exploitation of a minor, as described in Title 76, Chapter 5b,

- 504 Sexual Exploitation Act;
- 505 [(Q)] (T) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 506 [(R)] (U) aggravated arson, as described in Section 76-6-103;
- 507 [(S)] (V) aggravated burglary, as described in Section 76-6-203;
- 508 [(T)] (W) aggravated robbery, as described in Section 76-6-302;
- 509 [(U)] (X) lewdness involving a child, as described in Section 76-9-702.5;
- 510 [(V)] (Y) incest, as described in Section 76-7-102; or
- 511 [(W)] (Z) domestic violence, as described in Section 77-36-1; or
- 512 (ii) an offense committed outside the state that, if committed in the state, would
- 513 constitute a violation of an offense described in Subsection (13)(d)(i).
- 514 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 515 qualified status to an applicant if, within the five years from the date on which the
- 516 office conducts the background check, the applicant was convicted of a felony
- 517 involving conduct that constitutes a violation of any of the following:
- 518 (i) aggravated assault, as described in Section 76-5-103;
- 519 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 520 (iii) mayhem, as described in Section 76-5-105;
- 521 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 522 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 523 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 524 Act;
- 525 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 526 Precursor Act; or
- 527 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 528 (f) In addition to the circumstances described in Subsection (6), the office shall conduct
- 529 a comprehensive review of an applicant's background check under this section if the
- 530 applicant:
- 531 (i) has an offense described in Subsection (5)(a);
- 532 (ii) has an infraction conviction entered on a date that is no more than three years
- 533 before the date on which the office conducts the background check;
- 534 (iii) has a listing in the Division of Child and Family Services' Licensing Information
- 535 System described in Section 80-2-1002;
- 536 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
- 537 neglect, or exploitation database described in Section 26B-2-210;

- 538 (v) has a substantiated finding of severe child abuse or neglect under Section
539 80-3-404 or 80-3-504; or
540 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
541 substantiated or supported finding of a severe type of child abuse or neglect, as
542 defined in Section 80-1-102.

543 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
544 office may make rules, consistent with this part, to:

- 545 (a) establish procedures for, and information to be examined in, the comprehensive
546 review described in Subsections (6), (7), and (13); and
547 (b) determine whether to consider an offense or incident that occurred while an
548 individual was in the custody of the Division of Child and Family Services or the
549 Division of Juvenile Justice and Youth Services for purposes of granting or denying
550 direct access qualified status to an applicant.

551 Section 2. Section **53G-6-204** is amended to read:

552 **53G-6-204 . School-age children exempt from school attendance.**

553 (1)(a) A local school board or charter school governing board may excuse a school-age
554 child from attendance for any of the following reasons:

- 555 (i) a school-age child over 16 years old may receive a partial release from school to
556 enter employment, or attend a trade school, if the school-age child has completed
557 grade 8; or
558 (ii) on an annual basis, a school-age child may receive a full release from attending a
559 public, regularly established private, or part-time school or class if:
560 (A) the school-age child has already completed the work required for graduation
561 from high school;
562 (B) the school-age child is in a physical or mental condition, certified by a
563 competent physician or physician assistant if required by the local school board
564 or charter school governing board, which renders attendance inexpedient and
565 impracticable;
566 (C) proper influences and adequate opportunities for education are provided in
567 connection with the school-age child's employment; or
568 (D) the district superintendent or charter school governing board has determined
569 that a school-age child over 16 years old is unable to profit from attendance at
570 school because of inability or a continuing negative attitude toward school
571 regulations and discipline.

- 572 (b) A school-age child receiving a partial release from school under Subsection (1)(a)(i)
 573 is required to attend:
- 574 (i) school part time as prescribed by the local school board or charter school
 575 governing board; or
 576 (ii) a home school part time.
- 577 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
 578 must be sufficient to satisfy the local school board or charter school governing board.
- 579 (d) A local school board or charter school governing board that excuses a school-age
 580 child from attendance as provided by this Subsection (1) shall issue a certificate that
 581 the child is excused from attendance during the time specified on the certificate.
- 582 (2)(a)(i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or
 583 attempted felony offense of which an individual is convicted, or to which an
 584 individual pleads guilty or no contest, for conduct that constitutes any of the
 585 following:
- 586 (A) child abuse under Section 76-5-109;
 587 (B) aggravated child abuse under Section 76-5-109.2;
 588 (C) child abandonment under Section 76-5-109.3;
 589 (D) child torture under Section 76-5-109.4;
 590 [~~(D)~~] (E) commission of domestic violence in the presence of a child under Section
 591 76-5-114;
 592 [~~(E)~~] (F) child abuse homicide under Section 76-5-208;
 593 [~~(F)~~] (G) child kidnapping under Section 76-5-301.1;
 594 [~~(G)~~] (H) human trafficking of a child under Section 76-5-308.5;
 595 [~~(H)~~] (I) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in
 596 Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years
 597 old;
 598 [~~(I)~~] (J) sexual exploitation of a minor under Section 76-5b-201;
 599 [~~(J)~~] (K) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or
 600 [~~(K)~~] (L) an offense in another state that, if committed in this state, would
 601 constitute an offense described in this Subsection (2)(a)(i).
- 602 (ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
 603 school-age child from attendance, if the school-age child's parent or legal guardian
 604 files a signed affidavit with the school-age child's school district of residence, as
 605 defined in Section 53G-6-302, that:

- 606 (A) the school-age child will attend a home school; and
- 607 (B) the parent or legal guardian assumes sole responsibility for the education of
- 608 the school-age child, except to the extent the school-age child is dual enrolled
- 609 in a public school as provided in Section 53G-6-702.
- 610 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
- 611 competent jurisdiction has made a substantiated finding of child abuse against the
- 612 parent or legal guardian:
- 613 (A) the parent or legal guardian may not assume responsibility for the education
- 614 of a school-age child under Subsection (2)(a)(ii); and
- 615 (B) the local school board may not accept the affidavit described in Subsection
- 616 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age
- 617 child from attendance under Subsection (2)(a)(ii) in relation to the parent's or
- 618 legal guardian's intent to home school the child.
- 619 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
- 620 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the
- 621 affidavit described in Subsection (2)(a)(ii).
- 622 (b) A signed affidavit filed in accordance with Subsection (2)(a) shall remain in effect as
- 623 long as:
- 624 (i) the school-age child attends a home school;
- 625 (ii) the school district where the affidavit was filed remains the school-age child's
- 626 district of residence; and
- 627 (iii) the parent or legal guardian who filed the signed affidavit has not been convicted
- 628 of child abuse or been the subject of a substantiated finding of child abuse by a
- 629 court of competent jurisdiction.
- 630 (c) A parent or legal guardian of a school-age child who attends a home school is solely
- 631 responsible for:
- 632 (i) the selection of instructional materials and textbooks;
- 633 (ii) the time, place, and method of instruction; and
- 634 (iii) the evaluation of the home school instruction.
- 635 (d) A local school board may not:
- 636 (i) require a parent or legal guardian of a school-age child who attends a home school
- 637 to maintain records of instruction or attendance;
- 638 (ii) require credentials for individuals providing home school instruction;
- 639 (iii) inspect home school facilities; or

- 640 (iv) require standardized or other testing of home school students.
- 641 (e) Upon the request of a parent or legal guardian, a local school board shall identify the
642 knowledge, skills, and competencies a student is recommended to attain by grade
643 level and subject area to assist the parent or legal guardian in achieving college and
644 career readiness through home schooling.
- 645 (f) A local school board that excuses a school-age child from attendance under this
646 Subsection (2) shall annually issue a certificate stating that the school-age child is
647 excused from attendance for the specified school year.
- 648 (g) A local school board shall issue a certificate excusing a school-age child from
649 attendance:
- 650 (i) within 30 days after receipt of a signed affidavit filed by the school-age child's
651 parent or legal guardian under this Subsection (2); and
- 652 (ii) on or before August 1 each year thereafter unless:
- 653 (A) the school-age child enrolls in a school within the school district;
- 654 (B) the school-age child's parent or legal guardian notifies the school district that
655 the school-age child no longer attends a home school; or
- 656 (C) the school-age child's parent or legal guardian notifies the school district that
657 the school-age child's school district of residence has changed.
- 658 (3) A parent or legal guardian who is eligible to file and files a signed affidavit under
659 Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and
660 (6).
- 661 (4)(a) Nothing in this section may be construed to prohibit or discourage voluntary
662 cooperation, resource sharing, or testing opportunities between a school or school
663 district and a parent or legal guardian of a child attending a home school.
- 664 (b) The exemptions in this section apply regardless of whether:
- 665 (i) a parent or legal guardian provides education instruction to the parent's or legal
666 guardian's child alone or in cooperation with other parents or legal guardians
667 similarly exempted under this section; or
- 668 (ii) the parent or legal guardian makes payment for educational services the parent's
669 or legal guardian's child receives.

670 Section 3. Section **76-2-401** is amended to read:

671 **76-2-401 . Justification as defense -- When allowed.**

- 672 (1) Conduct which is justified is a defense to prosecution for any offense based on the
673 conduct. The defense of justification may be claimed:

- 674 (a) when the actor's conduct is in defense of persons or property under the circumstances
 675 described in Sections 76-2-402 through 76-2-406 of this part;
- 676 (b) when the actor's conduct is reasonable and in fulfillment of his duties as a
 677 governmental officer or employee;
- 678 (c) when the actor's conduct is reasonable discipline of minors by parents, guardians,
 679 teachers, or other persons in loco parentis, as limited by Subsection (2);
- 680 (d) when the actor's conduct is reasonable discipline of persons in custody under the
 681 laws of the state; or
- 682 (e) when the actor's conduct is justified for any other reason under the laws of this state.
- 683 (2) The defense of justification under Subsection (1)(c) is not available if the offense
 684 charged involves causing serious bodily injury, as defined in Section 76-1-101.5, serious [
- 685 ~~physical~~] injury, as defined in Section 76-5-109, or the death of the minor.

686 Section 4. Section **76-3-203.5** is amended to read:

687 **76-3-203.5 . Habitual violent offender -- Definition -- Procedure -- Penalty.**

688 (1) As used in this section:

- 689 (a) "Felony" means any violation of a criminal statute of the state, any other state, the
 690 United States, or any district, possession, or territory of the United States for which
 691 the maximum punishment the offender may be subjected to exceeds one year in
 692 prison.
- 693 (b) "Habitual violent offender" means a person convicted within the state of any violent
 694 felony and who on at least two previous occasions has been convicted of a violent
 695 felony and committed to either prison in Utah or an equivalent correctional institution
 696 of another state or of the United States either at initial sentencing or after revocation
 697 of probation.
- 698 (c) "Violent felony" means:
- 699 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to
 700 commit any of the following offenses punishable as a felony:
- 701 (A) arson as described in Section 76-6-102;
- 702 (B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);
- 703 (C) criminal mischief as described in Section 76-6-106;
- 704 (D) aggravated arson as described in Section 76-6-103;
- 705 (E) assault by prisoner as described in Section 76-5-102.5;
- 706 (F) disarming a police officer as described in Section 76-5-102.8;
- 707 (G) aggravated assault as described in Section 76-5-103;

708 (H) aggravated assault by prisoner as described in Section 76-5-103.5;
709 (I) mayhem as described in Section 76-5-105;
710 (J) stalking as described in Subsection 76-5-106.5(2);
711 (K) threat of terrorism as described in Section 76-5-107.3;
712 (L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);
713 (M) child torture as described in Section 76-5-109.4;
714 [~~(M)~~] (N) commission of domestic violence in the presence of a child as described
715 in Section 76-5-114;
716 [~~(N)~~] (O) abuse or neglect of a child with a disability as described in Section
717 76-5-110;
718 [~~(O)~~] (P) abuse or exploitation of a vulnerable adult as described in Section
719 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;
720 [~~(P)~~] (Q) endangerment of a child or vulnerable adult as described in Section
721 76-5-112.5;
722 [~~(Q)~~] (R) an offense described in Chapter 5, Part 2, Criminal Homicide;
723 [~~(R)~~] (S) kidnapping as described in Section 76-5-301;
724 [~~(S)~~] (T) child kidnapping as described in Section 76-5-301.1;
725 [~~(T)~~] (U) aggravated kidnapping as described in Section 76-5-302;
726 [~~(U)~~] (V) rape as described in Section 76-5-402;
727 [~~(V)~~] (W) rape of a child as described in Section 76-5-402.1;
728 [~~(W)~~] (X) object rape as described in Section 76-5-402.2;
729 [~~(X)~~] (Y) object rape of a child as described in Section 76-5-402.3;
730 [~~(Y)~~] (Z) forcible sodomy as described in Section 76-5-403;
731 [~~(Z)~~] (AA) sodomy on a child as described in Section 76-5-403.1;
732 [~~(AA)~~] (BB) forcible sexual abuse as described in Section 76-5-404;
733 [~~(BB)~~] (CC) sexual abuse of a child as described in Section 76-5-404.1;
734 [~~(CC)~~] (DD) aggravated sexual abuse of a child as described in Section 76-5-404.3;
735 [~~(DD)~~] (EE) aggravated sexual assault as described in Section 76-5-405;
736 [~~(EE)~~] (FF) sexual exploitation of a minor as described in Section 76-5b-201;
737 [~~(FF)~~] (GG) aggravated sexual exploitation of a minor as described in Section
738 76-5b-201.1;
739 [~~(GG)~~] (HH) sexual exploitation of a vulnerable adult as described in Section
740 76-5b-202;
741 [~~(HH)~~] (II) burglary as described in Subsection 76-6-202(3)(b);

- 742 ~~[(H)]~~ (JJ) aggravated burglary as described in Section 76-6-203;
- 743 ~~[(J)]~~ (KK) robbery as described in Section 76-6-301;
- 744 ~~[(K)]~~ (LL) aggravated robbery as described in Section 76-6-302;
- 745 ~~[(L)]~~ (MM) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or
- 746 (1)(a)(ii);
- 747 ~~[(M)]~~ (NN) tampering with a witness as described in Section 76-8-508;
- 748 ~~[(N)]~~ (OO) retaliation against a witness, victim, or informant as described in
- 749 Section 76-8-508.3;
- 750 ~~[(O)]~~ (PP) tampering or retaliating against a juror as described in Subsection
- 751 76-8-508.5(2)(a)(iii);
- 752 ~~[(P)]~~ (QQ) extortion to dismiss a criminal proceeding as described in Subsection
- 753 76-6-406(1)(a)(i), (ii), or (ix);
- 754 ~~[(Q)]~~ (RR) possession, use, or removal of explosive, chemical, or incendiary
- 755 devices as described in Subsections 76-10-306(3) through (6);
- 756 ~~[(R)]~~ (SS) unlawful delivery of explosive, chemical, or incendiary devices as
- 757 described in Section 76-10-307;
- 758 ~~[(S)]~~ (TT) purchase or possession of a dangerous weapon or handgun by a
- 759 restricted person as described in Section 76-10-503;
- 760 ~~[(T)]~~ (UU) aggravated exploitation of prostitution as described in Subsection
- 761 76-10-1306(1)(a);
- 762 ~~[(U)]~~ (VV) bus hijacking as described in Section 76-10-1504; and
- 763 ~~[(V)]~~ (WW) discharging firearms and hurling missiles as described in Section
- 764 76-10-1505; or
- 765 (ii) any felony violation of a criminal statute of any other state, the United States, or
- 766 any district, possession, or territory of the United States which would constitute a
- 767 violent felony as defined in this Subsection (1) if committed in this state.
- 768 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier
- 769 of fact determines beyond a reasonable doubt that the person is a habitual violent
- 770 offender under this section, the penalty for a:
- 771 (a) third degree felony is as if the conviction were for a first degree felony;
- 772 (b) second degree felony is as if the conviction were for a first degree felony; or
- 773 (c) first degree felony remains the penalty for a first degree penalty except:
- 774 (i) the convicted person is not eligible for probation; and
- 775 (ii) the Board of Pardons and Parole shall consider that the convicted person is a

776 habitual violent offender as an aggravating factor in determining the length of
777 incarceration.

778 (3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
779 notice in the information or indictment that the defendant is subject to punishment as
780 a habitual violent offender under this section. Notice shall include the case number,
781 court, and date of conviction or commitment of any case relied upon by the
782 prosecution.

783 (b)(i) The defendant shall serve notice in writing upon the prosecutor if the defendant
784 intends to deny that:

785 (A) the defendant is the person who was convicted or committed;

786 (B) the defendant was represented by counsel or had waived counsel; or

787 (C) the defendant's plea was understandingly or voluntarily entered.

788 (ii) The notice of denial shall be served not later than five days prior to trial and shall
789 state in detail the defendant's contention regarding the previous conviction and
790 commitment.

791 (4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a
792 jury, the jury may not be told, until after it returns its verdict on the underlying felony
793 charge, of the:

794 (i) defendant's previous convictions for violent felonies, except as otherwise provided
795 in the Utah Rules of Evidence; or

796 (ii) allegation against the defendant of being a habitual violent offender.

797 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
798 being an habitual violent offender by the same jury, if practicable, unless the
799 defendant waives the jury, in which case the allegation shall be tried immediately to
800 the court.

801 (c)(i) Before or at the time of sentencing the trier of fact shall determine if this
802 section applies.

803 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution
804 and the defendant shall be afforded an opportunity to present any necessary
805 additional evidence.

806 (iii) Before sentencing under this section, the trier of fact shall determine whether this
807 section is applicable beyond a reasonable doubt.

808 (d) If any previous conviction and commitment is based upon a plea of guilty or no
809 contest, there is a rebuttable presumption that the conviction and commitment were

810 regular and lawful in all respects if the conviction and commitment occurred after
811 January 1, 1970. If the conviction and commitment occurred prior to January 1,
812 1970, the burden is on the prosecution to establish by a preponderance of the
813 evidence that the defendant was then represented by counsel or had lawfully waived
814 the right to have counsel present, and that the defendant's plea was understandingly
815 and voluntarily entered.

816 (e) If the trier of fact finds this section applicable, the court shall enter that specific
817 finding on the record and shall indicate in the order of judgment and commitment
818 that the defendant has been found by the trier of fact to be a habitual violent offender
819 and is sentenced under this section.

820 (5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the
821 provisions of this section.

822 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in
823 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part
824 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

825 (6) The sentencing enhancement described in this section does not apply if:

826 (a) the offense for which the person is being sentenced is:

827 (i) a grievous sexual offense;

828 (ii) child kidnapping, Section 76-5-301.1;

829 (iii) aggravated kidnapping, Section 76-5-302; or

830 (iv) forcible sexual abuse, Section 76-5-404; and

831 (b) applying the sentencing enhancement provided for in this section would result in a
832 lower maximum penalty than the penalty provided for under the section that
833 describes the offense for which the person is being sentenced.

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

835 Section 5. Section **76-3-406** is amended to read:

836 **76-3-406 . Crimes for which probation, suspension of sentence, lower category of**
837 **offense, or hospitalization may not be granted.**

838 (1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a,
839 Commitment and Treatment of Individuals with a Mental Condition, except as provided
840 in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted,
841 the execution or imposition of sentence may not be suspended, the court may not enter a
842 judgment for a lower category of offense, and hospitalization may not be ordered, the
843 effect of which would in any way shorten the prison sentence for an individual who

844 commits a capital felony or a first degree felony involving:
 845 (a) child torture as described in Section 76-5-109.4;
 846 (b) aggravated murder as described in Section 76-5-202;
 847 ~~[(b)]~~ (c) murder as described in Section 76-5-203;
 848 ~~[(e)]~~ (d) child kidnapping as described in Section 76-5-301.1;
 849 ~~[(d)]~~ (e) aggravated kidnapping as described in Subsection 76-5-302(3)(b);
 850 ~~[(e)]~~ (f) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);
 851 ~~[(f)]~~ (g) rape of a child as described in Section 76-5-402.1;
 852 ~~[(g)]~~ (h) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);
 853 ~~[(h)]~~ (i) object rape of a child as described in Section 76-5-402.3;
 854 ~~[(i)]~~ (j) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);
 855 ~~[(j)]~~ (k) sodomy on a child as described in Section 76-5-403.1;
 856 ~~[(k)]~~ (l) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);
 857 ~~[(l)]~~ (m) aggravated sexual abuse of a child as described in Section 76-5-404.3;
 858 ~~[(m)]~~ (n) aggravated sexual assault as described in Section 76-5-405; or
 859 ~~[(n)]~~ (o) any attempt to commit a felony listed in Subsection ~~[(1)(f), (h), or (j)] (1)(g), (i),~~
 860 or (k).

861 (2) Except for an offense before the district court in accordance with Section 80-6-502 or
 862 80-6-504, the provisions of this section do not apply if the sentencing court finds that the
 863 defendant:

- 864 (a) was under 18 years old at the time of the offense; and
- 865 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
 866 delayed filing of the information.

867 Section 6. Section **76-5-109** is amended to read:

868 **76-5-109 . Child abuse.**

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

- 870 (i) "Child" means an individual who is younger than 18 years old.
- 871 (ii) ~~["Physical injury"]~~ "Injury" means ~~[an]~~ a physical or psychological injury to or
 872 condition of a child which impairs the physical or psychological condition of the
 873 child, including:
 - 874 (A) a bruise or other contusion of the skin;
 - 875 (B) a minor laceration or abrasion;
 - 876 (C) failure to thrive or malnutrition; or
 - 877 (D) any other condition ~~[which]~~ that imperils the child's physical or psychological

878 health or welfare and that is not a serious [~~physical~~]injury.

879 (iii) "Psychological injury" means an identifiable mental or emotional harm, damage,
880 impairment, or dysfunction.

881 [~~(iii)~~] (iv)(A) "Serious [~~physical~~]injury" means [~~any physical~~] an injury or set of
882 injuries that:

883 (I) seriously impairs the child's health, which includes the child's physical or
884 mental well-being or development;

885 [~~(H)~~] involves physical torture;

886 [~~(H)~~] (II) causes serious emotional harm to the child; or

887 [~~(V)~~] (III) involves a substantial risk of death to the child.

888 (B) "Serious [~~physical~~]injury" includes:

889 (I) fracture of any bone or bones;

890 (II) intracranial bleeding, swelling or contusion of the brain, whether caused by
891 blows, shaking, or causing the child's head to impact with an object or
892 surface;

893 (III) any burn, including burns inflicted by hot water, or those caused by
894 placing a hot object upon the skin or body of the child;

895 (IV) any injury caused by use of a dangerous weapon;

896 (V) any combination of two or more [~~physical~~]injuries inflicted by the same [
897 person] individual, either at the same time or on different occasions;

898 (VI) any damage to internal organs of the body;

899 (VII) any conduct toward a child that results in severe emotional harm, severe
900 developmental delay or intellectual disability, or severe impairment of the
901 child's ability to function;

902 (VIII) any injury that creates a permanent disfigurement or protracted loss or
903 impairment of the function of a bodily member, limb, or organ;

904 (IX) any impediment of the breathing or the circulation of blood by application
905 of pressure to the neck, throat, or chest, or by the obstruction of the nose or
906 mouth, that is likely to produce a loss of consciousness;

907 (X) any conduct involving unreasonable forcible restriction of a child's
908 movements, including restraining or confining the child with restraints or in
909 an enclosed space or forcing the child to remain in a stress position;

910 (XI) any conduct involving forcing or coercing a child to injure the child's self,
911 an individual known to the child, or an animal known to the child;

- 912 (XII) any conduct involving a threat to harm or kill the child, an individual
 913 known to the child, or an animal known to the child;
- 914 (XIII) any conduct involving unreasonably subjecting a child to excessive heat,
 915 cold, darkness, solitary confinement, or sleep deprivation;
- 916 [~~(X)~~] (XIV) any conduct that results in starvation[-or-], dehydration, failure to
 917 thrive, or malnutrition, that jeopardizes the child's life or seriously injures
 918 the child's physical or mental well-being or development; or
- 919 [~~(XI)~~] (XV) unconsciousness caused by the unlawful infliction of a brain injury
 920 or unlawfully causing any deprivation of oxygen to the brain.
- 921 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 922 (2) An actor commits child abuse if the actor:
- 923 (a) inflicts upon a child [~~physical~~] an injury; or
- 924 (b) having the care or custody of [~~such~~] a child, causes or permits another to inflict [~~physical~~] an injury upon [~~a~~] the child.
- 925
- 926 (3)(a) A violation of Subsection (2) is a class A misdemeanor if done intentionally or
 927 knowingly.
- 928 (b) A violation of Subsection (2) is a class B misdemeanor if done recklessly.
- 929 (c) A violation of Subsection (2) is a class C misdemeanor if done with criminal
 930 negligence.
- 931 (4)(a) A parent or legal guardian who provides a child with treatment by spiritual means
 932 alone through prayer, in lieu of medical treatment, in accordance with the tenets and
 933 practices of an established church or religious denomination of which the parent or
 934 legal guardian is a member or adherent may not, for that reason alone, be considered
 935 to have committed an offense under this section.
- 936 (b) A parent or guardian of a child does not violate this section by selecting a treatment
 937 option for a medical condition of the child, if the treatment option is one that a
 938 reasonable parent or guardian would believe to be in the best interest of the child.
- 939 (c) An actor is not guilty of an offense under this section for conduct that constitutes:
- 940 (i) reasonable discipline or management of a child, including withholding privileges;
- 941 (ii) conduct described in Section 76-2-401; or
- 942 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 943 (A) in self-defense;
- 944 (B) in defense of others;
- 945 (C) to protect the child; or

946 (D) to remove a weapon in the possession of a child for any of the reasons
947 described in Subsections (4)(c)(iii)(A) through (C).

948 Section 7. Section **76-5-109.2** is amended to read:

949 **76-5-109.2 . Aggravated child abuse.**

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

951 (i) "Child" means the same as that term is defined in Section 76-5-109.

952 (ii) "Serious [~~physical~~]injury" means the same as that term is defined in Section
953 76-5-109.

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

955 (2) [~~An~~] Under circumstances not amounting to a violation of Section 76-5-109.4, Child
956 torture, an actor commits aggravated child abuse if the actor:

957 (a) inflicts upon a child a serious [~~physical~~]injury; or

958 (b) having the care or custody of [~~such~~] a child, causes or permits another to inflict a
959 serious [~~physical~~]injury upon [a] the child.

960 (3)(a) A violation of Subsection (2) is a second degree felony if done intentionally or
961 knowingly.

962 (b) A violation of Subsection (2) is a third degree felony if done recklessly.

963 (c) A violation of Subsection (2) is a class A misdemeanor if done with criminal
964 negligence.

965 (4)(a) A parent or legal guardian who provides a child with treatment by spiritual means
966 alone through prayer, in lieu of medical treatment, in accordance with the tenets and
967 practices of an established church or religious denomination of which the parent or
968 legal guardian is a member or adherent may not, for that reason alone, be considered
969 to have committed an offense under this section.

970 (b) A parent or guardian of a child does not violate this section by selecting a treatment
971 option for the medical condition of the child, if the treatment option is one that a
972 reasonable parent or guardian would believe to be in the best interest of the child.

973 (c) An actor is not guilty of an offense under this section for conduct that constitutes:

974 (i) conduct described in Section 76-2-401; or

975 (ii) the use of reasonable and necessary physical restraint or force on a child:

976 (A) in self-defense;

977 (B) in defense of others;

978 (C) to protect the child; or

979 (D) to remove a weapon in the possession of a child for any of the reasons

980 described in Subsections (4)(c)(ii)(A) through (C).

981 Section 8. Section **76-5-109.3** is amended to read:

982 **76-5-109.3 . Child abandonment.**

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

984 (i) "Child" means the same as that term is defined in Section 76-5-109.

985 (ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

986 (iii) "Serious [~~physical~~]injury" means the same as that term is defined in Section
987 76-5-109.

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

989 (2)(a) Except as provided in Subsection (4), an actor commits child abandonment if the
990 actor:

991 (i) is a parent or legal guardian of a child, and:

992 (A) intentionally ceases to maintain physical custody of the child;

993 (B) intentionally fails to make reasonable arrangements for the safety, care, and
994 physical custody of the child; and

995 (C)(I) intentionally fails to provide the child with food, shelter, or clothing;

996 (II) manifests an intent to permanently not resume physical custody of the
997 child; or

998 (III) for a period of at least 30 days, intentionally fails to resume physical
999 custody of the child and fails to manifest a genuine intent to resume
1000 physical custody of the child; or

1001 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection
1002 (2)(a)(i).

1003 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if
1004 the enterprise encourages, commands, induces by misrepresentation, or causes
1005 another to violate Subsection (2)(a).

1006 (3)(a)(i) A violation of Subsection (2) is a third degree felony.

1007 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second
1008 degree felony if, as a result of the child abandonment:

1009 (A) the child suffers a serious [~~physical~~]injury; or

1010 (B) the actor or enterprise receives, directly or indirectly, any benefit.

1011 (b)(i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order
1012 the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of
1013 investigating and prosecuting the offense and the costs of securing any forfeiture

- 1014 provided for under Subsection (3)(b)(ii).
- 1015 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is
- 1016 subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture
- 1017 of Seized Property.
- 1018 (4)(a) A parent or legal guardian who provides a child with treatment by spiritual means
- 1019 alone through prayer, in lieu of medical treatment, in accordance with the tenets and
- 1020 practices of an established church or religious denomination of which the parent or
- 1021 legal guardian is a member or adherent may not, for that reason alone, be considered
- 1022 to have committed an offense under this section.
- 1023 (b) An actor is not guilty of an offense under this section for conduct that constitutes:
- 1024 (i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;
- 1025 (ii) giving legal consent to a court order for termination of parental rights:
- 1026 (A) in a legal adoption proceeding; or
- 1027 (B) in a case in which a petition for the termination of parental rights, or the
- 1028 termination of a guardianship, has been filed;
- 1029 (iii) reasonable discipline or management of a child, including withholding
- 1030 privileges; or
- 1031 (iv) conduct described in Section 76-2-401.
- 1032 (c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed
- 1033 child abandonment due to:
- 1034 (i) intimidation;
- 1035 (ii) isolation;
- 1036 (iii) harassment;
- 1037 (iv) coercion;
- 1038 (v) the actor's reasonable fear of bodily harm; or
- 1039 (vi) the reasonable actions of the actor to protect the safety and welfare of the actor or
- 1040 another individual.

1041 Section 9. Section **76-5-109.4** is enacted to read:

1042 **76-5-109.4 . Child torture.**

1043 (1)(a) As used in this section:

- 1044 (i) "Child" means the same as that term is defined in Section 76-5-109.
- 1045 (ii) "Course of conduct" means a pattern of conduct composed of two or more acts
- 1046 that evidence a continuity of purpose.
- 1047 (iii) "Serious injury" means the same as that term is defined in Section 76-5-109.

- 1048 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1049 (2) An actor commits child torture if the actor intentionally or knowingly inflicts upon a
 1050 child, or having the care or custody of a child, intentionally or knowingly causes or
 1051 permits another to inflict upon the child:
- 1052 (a) a serious injury that is inflicted in an exceptionally cruel or exceptionally depraved
 1053 manner that causes the child to experience extreme physical or psychological pain or
 1054 anguish; or
- 1055 (b) a serious injury, or more than one serious injury, as part of a course of conduct or
 1056 over a prolonged period of time.
- 1057 (3)(a) Except as provided under Subsection (3)(b), a violation of Subsection (2) is a first
 1058 degree felony subject to a sentence of imprisonment of at least 10 years and which
 1059 may be for life.
- 1060 (b) If, when imposing a sentence of imprisonment, a court finds that a lesser term than
 1061 the term described in Subsection (3)(a) is in the interests of justice and states the
 1062 reasons for this finding on the record, the court may impose a term of imprisonment
 1063 of not less than:
- 1064 (i) seven years and which may be for life; or
 1065 (ii) four years and which may be for life.
- 1066 (4) Imprisonment under Subsection (3) is mandatory in accordance with Section 76-3-406.
- 1067 (5) An actor's conduct is not subject to punishment under Subsection (2)(b) if the serious
 1068 injury that forms the basis for the offense is based solely on the commission of two or
 1069 more injuries by the same individual as described under Subsection 76-5-109(1)
 1070 (a)(iii)(B)(V).

1071 Section 10. Section **76-5-110** is amended to read:

1072 **76-5-110 . Abuse or neglect of a child with a disability.**

1073 (1)(a) As used in this section:

1074 (i) "Abuse" means:

1075 (A) inflicting [~~physical~~]injury;

1076 (B) having the care or custody of a child with a disability, causing or permitting
 1077 another to inflict [~~physical~~]injury; or

1078 (C) unreasonable confinement.

1079 (ii) "Caretaker" means:

1080 (A) any parent, legal guardian, or other person having under that person's care and
 1081 custody a child with a disability; or

- 1082 (B) any person, corporation, or public institution that has assumed by contract or
1083 court order the responsibility to provide food, shelter, clothing, medical, and
1084 other necessities to a child with a disability.
- 1085 (iii) "Child with a disability" means an individual under 18 years old who is impaired
1086 because of mental illness, mental deficiency, physical illness or disability, or other
1087 cause, to the extent that the individual is unable to care for the individual's own
1088 personal safety or to provide necessities such as food, shelter, clothing, and
1089 medical care.
- 1090 (iv) "Injury" means the same as that term is defined in Section 76-5-109.
- 1091 [~~(iv)~~] (v) "Neglect" means failure by a caretaker to provide care, nutrition, clothing,
1092 shelter, supervision, or medical care.
- 1093 [~~(v) "Physical injury" means the same as that term is defined in Section 76-5-109.]~~
- 1094 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1095 (2) An actor commits abuse or neglect of a child with a disability if the actor is a caretaker
1096 and intentionally, knowingly, or recklessly abuses or neglects a child with a disability.
- 1097 (3) A violation of Subsection (2) is a third degree felony.
- 1098 (4)(a) A parent or legal guardian who provides a child with treatment by spiritual means
1099 alone through prayer, in lieu of medical treatment, in accordance with the tenets and
1100 practices of an established church or religious denomination of which the parent or
1101 legal guardian is a member or adherent may not, for that reason alone, be considered
1102 to be in violation under this section.
- 1103 (b) Subject to Section 80-3-109, the exception under Subsection (4)(a) does not preclude
1104 a court from ordering medical services from a physician licensed to engage in the
1105 practice of medicine to be provided to the child where there is substantial risk of
1106 harm to the child's health or welfare if the treatment is not provided.
- 1107 (c) A caretaker of a child with a disability does not violate this section by selecting a
1108 treatment option for a medical condition of a child with a disability, if the treatment
1109 option is one that a reasonable caretaker would believe to be in the best interest of the
1110 child with a disability.
- 1111 Section 11. Section **76-5-202** is amended to read:
- 1112 **76-5-202 . Aggravated murder -- Penalties -- Affirmative defense and special**
1113 **mitigation -- Separate offense.**
- 1114 (1)(a) As used in this section:
- 1115 (i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

- 1116 (ii) "Emergency responder" means the same as that term is defined in Section
1117 53-2b-102.
- 1118 (iii) "Federal officer" means the same as that term is defined in Section 53-13-106.
- 1119 (iv) "Law enforcement officer" means the same as that term is defined in Section
1120 53-13-103.
- 1121 (v) "Peace officer" means:
- 1122 (A) a correctional officer, federal officer, law enforcement officer, or special
1123 function officer; or
- 1124 (B) any other person who may exercise peace officer authority in accordance with
1125 Title 53, Chapter 13, Peace Officer Classifications.
- 1126 (vi) "Special function officer" means the same as that term is defined in Section
1127 53-13-105.
- 1128 (vii) "Target a law enforcement officer" means an act:
- 1129 (A) involving the unlawful use of force and violence against a law enforcement
1130 officer;
- 1131 (B) that causes serious bodily injury or death; and
- 1132 (C) that is in furtherance of political or social objectives in order to intimidate or
1133 coerce a civilian population or to influence or affect the conduct of a
1134 government or a unit of government.
- 1135 (viii) "Weapon of mass destruction" means the same as that term is defined in Section
1136 76-10-401.
- 1137 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1138 (2)(a) An actor commits aggravated murder if the actor intentionally or knowingly
1139 causes the death of another individual under any of the following circumstances:
- 1140 (i) the actor committed homicide while confined in a jail or other correctional
1141 institution;
- 1142 (ii)(A) the actor committed homicide incident to one act, scheme, course of
1143 conduct, or criminal episode during which two or more individuals other than
1144 the actor were killed; or
- 1145 (B) the actor, during commission of the homicide, attempted to kill one or more
1146 other individuals in addition to the deceased individual;
- 1147 (iii) the actor knowingly created a great risk of death to another individual other than
1148 the deceased individual and the actor;
- 1149 (iv) the actor committed homicide incident to an act, scheme, course of conduct, or

- 1150 criminal episode during which the actor committed or attempted to commit
1151 aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a
1152 child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse
1153 of a child, aggravated sexual abuse of a child, aggravated child abuse as described
1154 in Subsection 76-5-109.2(3)(a), child torture, or aggravated sexual assault,
1155 aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or
1156 kidnapping, or child kidnapping;
- 1157 (v) the actor committed homicide incident to one act, scheme, course of conduct, or
1158 criminal episode during which the actor committed the crime of abuse or
1159 desecration of a dead human body as described in Subsection 76-9-704(2)(e);
- 1160 (vi) the actor committed homicide for the purpose of avoiding or preventing an arrest
1161 of the actor or another individual by a peace officer acting under color of legal
1162 authority or for the purpose of effecting the actor's or another individual's escape
1163 from lawful custody;
- 1164 (vii) the actor committed homicide for pecuniary gain;
- 1165 (viii) the actor committed, engaged, or employed another person to commit the
1166 homicide subject to an agreement or contract for remuneration or the promise of
1167 remuneration for commission of the homicide;
- 1168 (ix) the actor previously committed or was convicted of:
- 1169 (A) aggravated murder under this section;
- 1170 (B) attempted aggravated murder under this section;
- 1171 (C) murder, under Section 76-5-203;
- 1172 (D) attempted murder, under Section 76-5-203; or
- 1173 (E) an offense committed in another jurisdiction which if committed in this state
1174 would be a violation of a crime listed in this Subsection (2)(a)(ix);
- 1175 (x) the actor was previously convicted of:
- 1176 (A) aggravated assault, under Section 76-5-103;
- 1177 (B) mayhem, under Section 76-5-105;
- 1178 (C) kidnapping, under Section 76-5-301;
- 1179 (D) child kidnapping, under Section 76-5-301.1;
- 1180 (E) aggravated kidnapping, under Section 76-5-302;
- 1181 (F) rape, under Section 76-5-402;
- 1182 (G) rape of a child, under Section 76-5-402.1;
- 1183 (H) object rape, under Section 76-5-402.2;

- 1184 (I) object rape of a child, under Section 76-5-402.3;
- 1185 (J) forcible sodomy, under Section 76-5-403;
- 1186 (K) sodomy on a child, under Section 76-5-403.1;
- 1187 (L) aggravated sexual abuse of a child, under Section 76-5-404.3;
- 1188 (M) aggravated sexual assault, under Section 76-5-405;
- 1189 (N) aggravated arson, under Section 76-6-103;
- 1190 (O) aggravated burglary, under Section 76-6-203;
- 1191 (P) aggravated robbery, under Section 76-6-302;
- 1192 (Q) felony discharge of a firearm, under Section 76-10-508.1; or
- 1193 (R) an offense committed in another jurisdiction which if committed in this state
- 1194 would be a violation of a crime listed in this Subsection (2)(a)(x);
- 1195 (xi) the actor committed homicide for the purpose of:
- 1196 (A) preventing a witness from testifying;
- 1197 (B) preventing a person from providing evidence or participating in any legal
- 1198 proceedings or official investigation;
- 1199 (C) retaliating against a person for testifying, providing evidence, or participating
- 1200 in any legal proceedings or official investigation; or
- 1201 (D) disrupting or hindering any lawful governmental function or enforcement of
- 1202 laws;
- 1203 (xii) the deceased individual was a local, state, or federal public official, or a
- 1204 candidate for public office, and the homicide is based on, is caused by, or is
- 1205 related to that official position, act, capacity, or candidacy;
- 1206 (xiii) the deceased individual was on duty in a verified position or the homicide is
- 1207 based on, is caused by, or is related to the deceased individual's position, and the
- 1208 actor knew, or reasonably should have known, that the deceased individual holds
- 1209 or has held the position of:
- 1210 (A) a peace officer;
- 1211 (B) an executive officer, prosecuting officer, jailer, or prison official;
- 1212 (C) a firefighter, search and rescue personnel, emergency medical personnel,
- 1213 ambulance personnel, or any other emergency responder;
- 1214 (D) a judge or other court official, juror, probation officer, or parole officer; or
- 1215 (E) a security officer contracted to secure, guard, or otherwise protect tangible
- 1216 personal property, real property, or the life and well-being of human or animal
- 1217 life in the area of the offense;

- 1218 (xiv) the actor committed homicide:
- 1219 (A) by means of a destructive device, bomb, explosive, incendiary device, or
- 1220 similar device which was planted, hidden, or concealed in any place, area,
- 1221 dwelling, building, or structure, or was mailed or delivered;
- 1222 (B) by means of any weapon of mass destruction; or
- 1223 (C) to target a law enforcement officer;
- 1224 (xv) the actor committed homicide during the act of unlawfully assuming control of
- 1225 an aircraft, train, or other public conveyance by use of threats or force with intent
- 1226 to:
- 1227 (A) obtain any valuable consideration for the release of the public conveyance or
- 1228 any passenger, crew member, or any other person aboard;
- 1229 (B) direct the route or movement of the public conveyance; or
- 1230 (C) otherwise exert control over the public conveyance;
- 1231 (xvi) the actor committed homicide by means of the administration of a poison or of
- 1232 any lethal substance or of any substance administered in a lethal amount, dosage,
- 1233 or quantity;
- 1234 (xvii) the deceased individual was held or otherwise detained as a shield, hostage, or
- 1235 for ransom;
- 1236 (xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or
- 1237 exceptionally depraved manner, any of which must be demonstrated by physical
- 1238 torture, serious physical abuse, or serious bodily injury of the deceased individual
- 1239 before death;
- 1240 (xix) the actor dismembers, mutilates, or disfigures the deceased individual's body,
- 1241 whether before or after death, in a manner demonstrating the actor's depravity of
- 1242 mind; or
- 1243 (xx) the deceased individual, at the time of the death of the deceased individual:
- 1244 (A) was younger than 14 years old; and
- 1245 (B) was not an unborn child.
- 1246 (b) An actor commits aggravated murder if the actor, with reckless indifference to
- 1247 human life, causes the death of another individual incident to an act, scheme, course
- 1248 of conduct, or criminal episode during which the actor is a major participant in the
- 1249 commission or attempted commission of:
- 1250 (i) aggravated child abuse, punishable as a felony of the second degree under
- 1251 Subsection 76-5-109.2(3)(a);

1252 (ii) child torture under Section 76-5-109.4;
1253 ~~[(ii)]~~ (iii) child kidnapping[;] under Section 76-5-301.1;
1254 ~~[(iii)]~~ (iv) rape of a child[;] under Section 76-5-402.1;
1255 ~~[(iv)]~~ (v) object rape of a child[;] under Section 76-5-402.3;
1256 ~~[(v)]~~ (vi) sodomy on a child[;] under Section 76-5-403.1; or
1257 ~~[(vi)]~~ (vii) sexual abuse or aggravated sexual abuse of a child[;] under Section
1258 76-5-404.1.

1259 (3)(a) If a notice of intent to seek the death penalty has been filed, a violation of
1260 Subsection (2) is a capital felony.

1261 (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is
1262 a noncapital first degree felony punishable as provided in Section 76-3-207.7.

1263 (c)(i) Within 60 days after arraignment of the defendant, the prosecutor may file
1264 notice of intent to seek the death penalty.

1265 (ii) The notice shall be served on the defendant or defense counsel and filed with the
1266 court.

1267 (iii) Notice of intent to seek the death penalty may be served and filed more than 60
1268 days after the arraignment upon written stipulation of the parties or upon a finding
1269 by the court of good cause.

1270 (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to
1271 noncapital first degree felony aggravated murder during the period in which the
1272 prosecutor may file a notice of intent to seek the death penalty under Subsection
1273 (3)(c)(i).

1274 (e) If the defendant was younger than 18 years old at the time the offense was
1275 committed, aggravated murder is a noncapital first degree felony punishable as
1276 provided in Section 76-3-207.7.

1277 (f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
1278 aggravated murder, or alternatively, attempted aggravated murder, as described in
1279 this section, are proved beyond a reasonable doubt, and also finds that the existence
1280 of special mitigation is established by a preponderance of the evidence and in
1281 accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as
1282 follows:

1283 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall
1284 enter a judgment of conviction for murder; or

1285 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the

1286 court shall enter a judgment of conviction for attempted murder.

1287 (4)(a) It is an affirmative defense to a charge of aggravated murder or attempted
 1288 aggravated murder that the actor caused the death of another or attempted to cause
 1289 the death of another under a reasonable belief that the circumstances provided a legal
 1290 justification or excuse for the conduct although the conduct was not legally justifiable
 1291 or excusable under the existing circumstances.

1292 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
 1293 the viewpoint of a reasonable person under the then existing circumstances.

1294 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
 1295 aggravated murder, or alternatively, attempted aggravated murder, as described in
 1296 this section, are proved beyond a reasonable doubt, and also finds the affirmative
 1297 defense described in this Subsection (4) is not disproven beyond a reasonable doubt,
 1298 the court shall enter a judgment of conviction as follows:

1299 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall
 1300 enter a judgment of conviction for murder; or

1301 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the
 1302 court shall enter a judgment of conviction for attempted murder.

1303 (5)(a) Any aggravating circumstance described in Subsection (2) that constitutes a
 1304 separate offense does not merge with the crime of aggravated murder.

1305 (b) An actor who is convicted of aggravated murder, based on an aggravating
 1306 circumstance described in Subsection (2) that constitutes a separate offense, may also
 1307 be convicted of, and punished for, the separate offense.

1308 Section 12. Section **76-5-203** is amended to read:

1309 **76-5-203 . Murder -- Penalties-- Affirmative defense and special mitigation --**

1310 **Separate offenses.**

1311 (1)(a) As used in this section, "predicate offense" means:

1312 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

1313 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused
 1314 individual is younger than 18 years old;

1315 (iii) child torture under Section 76-5-109.4;

1316 [~~(iii)~~] (iv) kidnapping under Section 76-5-301;

1317 [~~(iv)~~] (v) child kidnapping under Section 76-5-301.1;

1318 [~~(v)~~] (vi) aggravated kidnapping under Section 76-5-302;

1319 [~~(vi)~~] (vii) rape under Section 76-5-402;

- 1320 [~~(vii)~~] (viii) rape of a child under Section 76-5-402.1;
- 1321 [~~(viii)~~] (ix) object rape under Section 76-5-402.2;
- 1322 [~~(ix)~~] (x) object rape of a child under Section 76-5-402.3;
- 1323 [~~(x)~~] (xi) forcible sodomy under Section 76-5-403;
- 1324 [~~(xi)~~] (xii) sodomy upon a child under Section 76-5-403.1;
- 1325 [~~(xii)~~] (xiii) forcible sexual abuse under Section 76-5-404;
- 1326 [~~(xiii)~~] (xiv) sexual abuse of a child under Section 76-5-404.1;
- 1327 [~~(xiv)~~] (xv) aggravated sexual abuse of a child under Section 76-5-404.3;
- 1328 [~~(xv)~~] (xvi) aggravated sexual assault under Section 76-5-405;
- 1329 [~~(xvi)~~] (xvii) arson under Section 76-6-102;
- 1330 [~~(xvii)~~] (xviii) aggravated arson under Section 76-6-103;
- 1331 [~~(xviii)~~] (xix) burglary under Section 76-6-202;
- 1332 [~~(xix)~~] (xx) aggravated burglary under Section 76-6-203;
- 1333 [~~(xx)~~] (xxi) robbery under Section 76-6-301;
- 1334 [~~(xxi)~~] (xxii) aggravated robbery under Section 76-6-302;
- 1335 [~~(xxii)~~] (xxiii) escape under Section 76-8-309;
- 1336 [~~(xxiii)~~] (xxiv) aggravated escape under Section 76-8-309.3; or
- 1337 [~~(xxiv)~~] (xxv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding
- 1338 discharge of a firearm or dangerous weapon.
- 1339 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1340 (2) An actor commits murder if:
- 1341 (a) the actor intentionally or knowingly causes the death of another individual;
- 1342 (b) intending to cause serious bodily injury to another individual, the actor commits an
- 1343 act clearly dangerous to human life that causes the death of the other individual;
- 1344 (c) acting under circumstances evidencing a depraved indifference to human life, the
- 1345 actor knowingly engages in conduct that creates a grave risk of death to another
- 1346 individual and thereby causes the death of the other individual;
- 1347 (d)(i) the actor is engaged in the commission, attempted commission, or immediate
- 1348 flight from the commission or attempted commission of any predicate offense, or
- 1349 is a party to the predicate offense;
- 1350 (ii) an individual other than a party described in Section 76-2-202 is killed in the
- 1351 course of the commission, attempted commission, or immediate flight from the
- 1352 commission or attempted commission of any predicate offense; and
- 1353 (iii) the actor acted with the intent required as an element of the predicate offense;

- 1354 (e) the actor recklessly causes the death of a peace officer or military service member in
1355 uniform while in the commission or attempted commission of:
- 1356 (i) an assault against a peace officer under Section 76-5-102.4;
- 1357 (ii) interference with a peace officer while making a lawful arrest under Section
1358 76-8-305 if the actor uses force against the peace officer; or
- 1359 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
- 1360 or
- 1361 (f) the actor commits a homicide that would be aggravated murder, but the offense is
1362 reduced in accordance with Subsection 76-5-202(4).
- 1363 (3)(a)(i) A violation of Subsection (2) is a first degree felony.
- 1364 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for
1365 an indeterminate term of not less than 15 years and which may be for life.
- 1366 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
1367 or alternatively, attempted murder, as described in this section are proved beyond a
1368 reasonable doubt, and also finds that the existence of special mitigation is established
1369 by a preponderance of the evidence and in accordance with Section 76-5-205.5, the
1370 court shall enter a judgment of conviction as follows:
- 1371 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
1372 judgment of conviction for manslaughter; or
- 1373 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,
1374 notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment
1375 of conviction for attempted manslaughter.
- 1376 (4)(a) It is an affirmative defense to a charge of murder or attempted murder that the
1377 defendant caused the death of another individual or attempted to cause the death of
1378 another individual under a reasonable belief that the circumstances provided a legal
1379 justification or excuse for the conduct although the conduct was not legally justifiable
1380 or excusable under the existing circumstances.
- 1381 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
1382 the viewpoint of a reasonable person under the then existing circumstances.
- 1383 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or
1384 alternatively, attempted murder, as described in this section are proved beyond a
1385 reasonable doubt, and also finds the affirmative defense described in this Subsection
1386 (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of
1387 conviction as follows:

- 1388 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
 1389 judgment of conviction for manslaughter; or
 1390 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall
 1391 enter a judgment of conviction for attempted manslaughter.

1392 (5)(a) Any predicate offense that constitutes a separate offense does not merge with the
 1393 crime of murder.

1394 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a
 1395 separate offense, may also be convicted of, and punished for, the separate offense.

1396 Section 13. Section **76-5-208** is amended to read:

1397 **76-5-208 . Child abuse homicide -- Penalties.**

1398 (1)(a) As used in this section, "child abuse" means an offense described in [~~Sections~~]
 1399 Section 76-5-109, 76-5-109.2, 76-5-109.3, [and] 76-5-109.4, or 76-5-114.

1400 (b) Terms defined in Section 76-1-101.5 apply to this section.

1401 (2) Unless a violation amounts to aggravated murder as described in Section 76-5-202, an
 1402 actor commits child abuse homicide if:

1403 (a)(i) the actor causes the death of another individual who is younger than 18 years
 1404 old; and

1405 (ii) the individual's death results from child abuse; and

1406 (b)(i) the child abuse is based on a violation of Section 76-5-109.4, Child Torture;

1407 (ii) the child abuse is done recklessly under Subsection 76-5-109.2(3)(b);

1408 [~~(ii)~~] (iii) the child abuse is done with criminal negligence under Subsection
 1409 76-5-109.2(3)(c); or

1410 [~~(iii)~~] (iv) under circumstances not amounting to the type of child abuse homicide
 1411 described in Subsection (2)(b)(i), the child abuse is done intentionally, knowingly,
 1412 recklessly, or with criminal negligence, under Subsection 76-5-109(3)(a), (b), or
 1413 (c).

1414 (3)(a) A violation of Subsection (2) under the circumstances described in Subsection
 1415 (2)(b)(i) is a first degree felony.

1416 (b) A violation of Subsection (2) under the circumstances described in Subsection
 1417 (2)(b)(ii) or (iii) is a second degree felony.

1418 Section 14. Section **76-7-101** is amended to read:

1419 **76-7-101 . Bigamy -- Penalty -- Defense.**

1420 (1) An individual is guilty of bigamy if:

1421 (a) the individual purports to marry another individual; and

- 1422 (b) knows or reasonably should know that one or both of the individuals described in
1423 Subsection (1)(a) are legally married to another individual.
- 1424 (2) An individual who violates Subsection (1) is guilty of an infraction.
- 1425 (3) An individual is guilty of a third degree felony if the individual induces bigamy:
1426 (a) under fraudulent or false pretenses; or
1427 (b) by threat or coercion.
- 1428 (4) An individual is guilty of a second degree felony if the individual:
1429 (a) cohabitates with another individual with whom the individual is engaged in bigamy
1430 as described in Subsection (1); and
1431 (b) in furtherance of the conduct described in Subsection (4)(a), commits a felony
1432 offense, or for Subsection [~~(4)(b)(xiii)~~] (4)(b)(xiv), a misdemeanor offense, in
1433 violation of one or more of the following:
1434 (i) Section 76-5-109, child abuse;
1435 (ii) Section 76-5-109.2, aggravated child abuse;
1436 (iii) Section 76-5-109.3, child abandonment;
1437 (iv) Section 76-5-109.4, child torture;
1438 [~~(iv)~~] (v) Section 76-5-111, abuse of a vulnerable adult;
1439 [~~(v)~~] (vi) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
1440 [~~(vi)~~] (vii) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;
1441 [~~(vii)~~] (viii) Section 76-5-111.4, financial exploitation of a vulnerable adult;
1442 [~~(viii)~~] (ix) Chapter 5, Part 2, Criminal Homicide;
1443 [~~(ix)~~] (x) Section 76-5-208, child abuse homicide;
1444 [~~(x)~~] (xi) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
1445 [~~(xi)~~] (xii) Chapter 5, Part 4, Sexual Offenses;
1446 [~~(xii)~~] (xiii) Section 76-7-201, criminal nonsupport;
1447 [~~(xiii)~~] (xiv) Section 76-9-702.1, sexual battery;
1448 [~~(xiv)~~] (xv) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or
1449 [~~(xv)~~] (xvi) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 1450 (5) It is a defense to prosecution under Subsection (2) that:
1451 (a) the individual ceased the practice of bigamy as described in Subsection (1) under
1452 reasonable fear of coercion or bodily harm;
1453 (b) the individual entered the practice of bigamy, as described in Subsection (1), as a
1454 minor and ceased the practice of bigamy at any time after the individual entered the
1455 practice of bigamy; or

1456 (c) law enforcement discovers that the individual practices bigamy, as described in
 1457 Subsection (1), as a result of the individual's efforts to protect the safety and welfare
 1458 of another individual.

1459 Section 15. Section **77-41-102** is amended to read:

1460 **77-41-102 . Definitions.**

1461 As used in this chapter:

1462 (1) "Child abuse offender" means an individual:

1463 (a) who has been convicted in this state of a violation of:

1464 (i)(A) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

1465 [~~(ii)~~] (B) attempting, soliciting, or conspiring to commit aggravated child abuse
 1466 under Subsection 76-5-109.2(3)(a) or (b); or

1467 (ii)(A) child torture under Section 76-5-109.4; or

1468 (B) attempting, soliciting, or conspiring to commit child torture under Section
 1469 76-5-109.4;

1470 (b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to
 1471 commit a crime in another jurisdiction, including a state, federal, or military court,
 1472 that is substantially equivalent to the offense listed in Subsection (1)(a); and

1473 (ii)(A) who is a Utah resident; or

1474 (B) who is not a Utah resident but is in this state for a total of 10 days in a
 1475 12-month period, regardless of whether the offender intends to permanently
 1476 reside in this state;

1477 (c)(i)(A) who is required to register as a child abuse offender in another
 1478 jurisdiction of original conviction;

1479 (B) who is required to register as a child abuse offender by a state, a federal, or a
 1480 military court; or

1481 (C) who would be required to register as a child abuse offender if residing in the
 1482 jurisdiction of the conviction regardless of the date of the conviction or a
 1483 previous registration requirement; and

1484 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of
 1485 whether the offender intends to permanently reside in this state;

1486 (d)(i)(A) who is a nonresident regularly employed or working in this state; or

1487 (B) who is a student in this state; and

1488 (ii)(A) who was convicted of the offense listed in Subsection (1)(a) or a
 1489 substantially equivalent offense in another jurisdiction; or

- 1490 (B) who is required to register in the individual's state of residence based on a
1491 conviction for an offense that is not substantially equivalent to an offense listed
1492 in Subsection (1)(a);
- 1493 (e) who is found not guilty by reason of insanity in this state or in another jurisdiction of
1494 the offense listed in Subsection (1)(a); or
- 1495 (f)(i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection
1496 (1)(a); and
- 1497 (ii) who has been committed to the division for secure care, as defined in Section
1498 80-1-102, for that offense if:
- 1499 (A) the individual remains in the division's custody until 30 days before the
1500 individual's 21st birthday;
- 1501 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
1502 under Section 80-6-605 and the individual remains in the division's custody
1503 until 30 days before the individual's 25th birthday; or
- 1504 (C) the individual is moved from the division's custody to the custody of the
1505 department before expiration of the division's jurisdiction over the individual.
- 1506 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
1507 Safety established in ~~[section]~~ Section 53-10-201.
- 1508 (3) "Business day" means a day on which state offices are open for regular business.
- 1509 (4) "Certificate of eligibility" means a document issued by the Bureau of Criminal
1510 Identification showing that the offender has met the requirements of Section 77-41-112.
- 1511 (5)(a) "Convicted" means a plea or conviction of:
- 1512 (i) guilty;
- 1513 (ii) guilty with a mental illness; or
- 1514 (iii) no contest.
- 1515 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
1516 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.
- 1517 (c) "Convicted" does not include:
- 1518 (i) a withdrawn or dismissed plea in abeyance;
- 1519 (ii) a diversion agreement; or
- 1520 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 1521 (6) "Department" means the Department of Public Safety.
- 1522 (7) "Division" means the Division of Juvenile Justice and Youth Services.
- 1523 (8) "Employed" or "carries on a vocation" includes employment that is full time or part

1524 time, whether financially compensated, volunteered, or for the purpose of government or
1525 educational benefit.

1526 (9) "Indian Country" means:

1527 (a) all land within the limits of any Indian reservation under the jurisdiction of the
1528 United States government, regardless of the issuance of any patent, and includes
1529 rights-of-way running through the reservation;

1530 (b) all dependent Indian communities within the borders of the United States whether
1531 within the original or subsequently acquired territory, and whether or not within the
1532 limits of a state; and

1533 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
1534 not been extinguished, including rights-of-way running through the allotments.

1535 (10) "Jurisdiction" means any state, Indian Country, United States Territory, or property
1536 under the jurisdiction of the United States military, Canada, the United Kingdom,
1537 Australia, or New Zealand.

1538 (11) "Kidnap offender" means an individual, other than a natural parent of the victim:

1539 (a) who has been convicted in this state of a violation of:

1540 (i) kidnapping under Subsection 76-5-301(2)(c) or (d);

1541 (ii) child kidnapping under Section 76-5-301.1;

1542 (iii) aggravated kidnapping under Section 76-5-302;

1543 (iv) human trafficking for labor under Section 76-5-308;

1544 (v) human smuggling under Section 76-5-308.3;

1545 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

1546 (vii) aggravated human trafficking under Section 76-5-310;

1547 (viii) aggravated human smuggling under Section 76-5-310.1;

1548 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or

1549 (x) attempting, soliciting, or conspiring to commit a felony offense listed in

1550 Subsections (11)(a)(i) through (ix);

1551 (b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to
1552 commit a crime in another jurisdiction, including a state, federal, or military court,
1553 that is substantially equivalent to the offenses listed in Subsection (11)(a); and

1554 (ii)(A) who isa is a Utah resident; or

1555 (B) who is not a Utah resident but is in this state for a total of 10 days in a

1556 12-month period, regardless of whether the offender intends to permanently

1557 reside in this state;

- 1558 (c)(i)(A) who is required to register as a kidnap offender in another jurisdiction of
1559 original conviction;
- 1560 (B) who is required to register as a kidnap offender by a state, federal, or military
1561 court; or
- 1562 (C) who would be required to register as a kidnap offender if residing in the
1563 jurisdiction of the conviction regardless of the date of the conviction or a
1564 previous registration requirement; and
- 1565 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of
1566 whether the offender intends to permanently reside in this state;
- 1567 (d)(i)(A) who is a nonresident regularly employed or working in this state; or
1568 (B) who is a student in this state; and
- 1569 (ii)(A) who was convicted of one or more offenses listed in Subsection (11)(a) or
1570 any substantially equivalent offense in another jurisdiction; or
1571 (B) who is required to register in the individual's state of residence based on a
1572 conviction for an offense that is not substantially equivalent to an offense listed
1573 in Subsection (11)(a);
- 1574 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
1575 of one or more offenses listed in Subsection (11)(a); or
- 1576 (f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
1577 Subsection (11)(a); and
- 1578 (ii) who has been committed to the division for secure care, as defined in Section
1579 80-1-102, for that offense if:
- 1580 (A) the individual remains in the division's custody until 30 days before the
1581 individual's 21st birthday;
- 1582 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
1583 under Section 80-6-605 and the individual remains in the division's custody
1584 until 30 days before the individual's 25th birthday; or
- 1585 (C) the individual is moved from the division's custody to the custody of the
1586 department before expiration of the division's jurisdiction over the individual.
- 1587 (12) "Natural parent" means a minor's biological or adoptive parent, including the minor's
1588 noncustodial parent.
- 1589 (13) "Offender" means a child abuse offender, kidnap offender, or sex offender.
- 1590 (14) "Online identifier" or "Internet identifier":
- 1591 (a) means any electronic mail, chat, instant messenger, social networking, or similar

- 1592 name used for Internet communication; and
- 1593 (b) does not include date of birth, social security number, PIN number, or Internet
1594 passwords.
- 1595 (15) "Primary residence" means the location where the offender regularly resides, even if
1596 the offender intends to move to another location or return to another location at a future
1597 date.
- 1598 (16) "Register" means to comply with the requirements of this chapter and administrative
1599 rules of the department made under this chapter.
- 1600 (17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification
1601 and Registration website described in Section 77-41-110 and the information on the
1602 website.
- 1603 (18) "Secondary residence" means real property that the offender owns or has a financial
1604 interest in, or a location where the offender stays overnight a total of 10 or more nights
1605 in a 12-month period when not staying at the offender's primary residence.
- 1606 (19) "Sex offender" means an individual:
- 1607 (a) convicted in this state of:
- 1608 (i) a felony or class A misdemeanor violation of enticing a minor under Section
1609 76-4-401;
- 1610 (ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1611 (iii) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1612 (iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5
1613 (4)(b);
- 1614 (v) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 1615 (vi) human trafficking of a vulnerable adult for sexual exploitation under Section
1616 76-5-311;
- 1617 (vii) unlawful sexual activity with a minor under Section 76-5-401, except as
1618 provided in Subsection 76-5-401(3)(b) or (c);
- 1619 (viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in
1620 Subsection 76-5-401.1(3);
- 1621 (ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 1622 (x) rape under Section 76-5-402;
- 1623 (xi) rape of a child under Section 76-5-402.1;
- 1624 (xii) object rape under Section 76-5-402.2;
- 1625 (xiii) object rape of a child under Section 76-5-402.3;

- 1626 (xiv) a felony violation of forcible sodomy under Section 76-5-403;
1627 (xv) sodomy on a child under Section 76-5-403.1;
1628 (xvi) forcible sexual abuse under Section 76-5-404;
1629 (xvii) sexual abuse of a child under Section 76-5-404.1;
1630 (xviii) aggravated sexual abuse of a child under Section 76-5-404.3;
1631 (xix) aggravated sexual assault under Section 76-5-405;
1632 (xx) custodial sexual relations under Section 76-5-412, when the individual in
1633 custody is younger than 18 years old, if the offense is committed on or after May
1634 10, 2011;
1635 (xxi) sexual exploitation of a minor under Section 76-5b-201;
1636 (xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
1637 (xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
1638 (xxiv) incest under Section 76-7-102;
1639 (xxv) lewdness under Section 76-9-702, if the individual has been convicted of the
1640 offense four or more times;
1641 (xxvi) sexual battery under Section 76-9-702.1, if the individual has been convicted
1642 of the offense four or more times;
1643 (xxvii) any combination of convictions of lewdness under Section 76-9-702, and of
1644 sexual battery under Section 76-9-702.1, that total four or more convictions;
1645 (xxviii) lewdness involving a child under Section 76-9-702.5;
1646 (xxix) a felony or class A misdemeanor violation of voyeurism under Section
1647 76-9-702.7;
1648 (xxx) aggravated exploitation of prostitution under Section 76-10-1306; or
1649 (xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this
1650 Subsection (19)(a);
1651 (b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to
1652 commit a crime in another jurisdiction, including a state, federal, or military court,
1653 that is substantially equivalent to the offenses listed in Subsection (19)(a); and
1654 (ii)(A) who [isa] is a Utah resident; or
1655 (B) who is not a Utah resident but is in this state for a total of 10 days in a
1656 12-month period, regardless of whether the offender intends to permanently
1657 reside in this state;
1658 (c)(i)(A) who is required to register as a sex offender in another jurisdiction of
1659 original conviction;

- 1660 (B) who is required to register as a sex offender by a state, federal, or military
 1661 court; or
- 1662 (C) who would be required to register as a sex offender if residing in the
 1663 jurisdiction of the original conviction regardless of the date of the conviction or
 1664 a previous registration requirement; and
- 1665 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of
 1666 whether the offender intends to permanently reside in this state;
- 1667 (d)(i)(A) who is a nonresident regularly employed or working in this state; or
 1668 (B) who is a student in this state; and
- 1669 (ii)(A) who was convicted of one or more offenses listed in Subsection (19)(a) or
 1670 a substantially equivalent offense in another jurisdiction; or
 1671 (B) who is required to register in the individual's jurisdiction of residence based
 1672 on a conviction for an offense that is not substantially equivalent to an offense
 1673 listed in Subsection (19)(a);
- 1674 (e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of
 1675 one or more offenses listed in Subsection (19)(a); or
- 1676 (f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
 1677 Subsection (19)(a); and
- 1678 (ii) who has been committed to the division for secure care, as defined in Section
 1679 80-1-102, for that offense if:
- 1680 (A) the individual remains in the division's custody until 30 days before the
 1681 individual's 21st birthday;
- 1682 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
 1683 under Section 80-6-605 and the individual remains in the division's custody
 1684 until 30 days before the individual's 25th birthday; or
- 1685 (C) the individual is moved from the division's custody to the custody of the
 1686 department before expiration of the division's jurisdiction over the individual.
- 1687 (20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
 1688 Under the Influence and Reckless Driving.
- 1689 (21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in
 1690 any jurisdiction.
- 1691 Section 16. Section **78B-6-117** is amended to read:
- 1692 **78B-6-117 . Who may adopt -- Adoption of minor.**
- 1693 (1) A minor child may be adopted by an adult individual, in accordance with this section

- 1694 and this part.
- 1695 (2) A child may be adopted by:
- 1696 (a) adults who are legally married to each other in accordance with the laws of this state,
1697 including adoption by a stepparent; or
- 1698 (b) subject to Subsections (3) and (4), a single adult.
- 1699 (3) A child may not be adopted by an individual who is cohabiting in a relationship that is
1700 not a legally valid and binding marriage under the laws of this state unless the individual
1701 is a relative of the child or a recognized placement under the Indian Child Welfare Act,
1702 25 U.S.C. Sec. 1901 et seq.
- 1703 (4) To provide a child who is in the custody of the division with the most beneficial family
1704 structure, when a child in the custody of the division is placed for adoption, the division
1705 or child-placing agency shall place the child with a married couple, unless:
- 1706 (a) there are no qualified married couples who:
- 1707 (i) have applied to adopt a child;
- 1708 (ii) are willing to adopt the child; and
- 1709 (iii) are an appropriate placement for the child;
- 1710 (b) the child is placed with a relative of the child;
- 1711 (c) the child is placed with an individual who has already developed a substantial
1712 relationship with the child;
- 1713 (d) the child is placed with an individual who:
- 1714 (i) is selected by a parent or former parent of the child, if the parent or former parent
1715 consented to the adoption of the child; and
- 1716 (ii) the parent or former parent described in Subsection (4)(d)(i):
- 1717 (A) knew the individual with whom the child is placed before the parent
1718 consented to the adoption; or
- 1719 (B) became aware of the individual with whom the child is placed through a
1720 source other than the division or the child-placing agency that assists with the
1721 adoption of the child; or
- 1722 (e) it is in the best interests of the child to place the child with a single adult.
- 1723 (5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption
1724 is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a
1725 felony or attempted felony involving conduct that constitutes any of the following:
- 1726 (a) child abuse, as described in Section 76-5-109;
- 1727 (b) aggravated child abuse, as described in Section 76-5-109.2;

- 1728 (c) child abandonment, as described in Section 76-5-109.3;
- 1729 (d) child torture, as described in Section 76-5-109.4;
- 1730 (e) commission of domestic violence in the presence of a child, as described in Section
- 1731 76-5-114;
- 1732 ~~[(b)]~~ (f) child abuse homicide, as described in Section 76-5-208;
- 1733 ~~[(e)]~~ (g) child kidnapping, as described in Section 76-5-301.1;
- 1734 ~~[(d)]~~ (h) human trafficking of a child, as described in Section 76-5-308.5;
- 1735 ~~[(e)]~~ (i) sexual abuse of a minor, as described in Section 76-5-401.1;
- 1736 ~~[(f)]~~ (j) rape of a child, as described in Section 76-5-402.1;
- 1737 ~~[(g)]~~ (k) object rape of a child, as described in Section 76-5-402.3;
- 1738 ~~[(h)]~~ (l) sodomy on a child, as described in Section 76-5-403.1;
- 1739 ~~[(i)]~~ (m) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual
- 1740 abuse of a child, as described in Section 76-5-404.3;
- 1741 ~~[(j)]~~ (n) sexual exploitation of a minor, as described in Section 76-5b-201;
- 1742 ~~[(k)]~~ (o) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1;
- 1743 or
- 1744 ~~[(l)] aggravated child abuse, as described in Section 76-5-109.2;]~~
- 1745 ~~[(m)] child abandonment, as described in Section 76-5-109.3;]~~
- 1746 ~~[(n)] commission of domestic violence in the presence of a child, as described in Section~~
- 1747 ~~76-5-114; or]~~
- 1748 ~~[(o)]~~ (p) an offense in another state that, if committed in this state, would constitute an
- 1749 offense described in this Subsection (5).
- 1750 (6)(a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed
- 1751 in Subsection (5) that prevents a court from considering an individual for adoption of
- 1752 a child except as provided in this Subsection (6).
- 1753 (b) An individual described in Subsection (5) may only be considered for adoption of a
- 1754 child if the following criteria are met by clear and convincing evidence:
- 1755 (i) at least 10 years have elapsed from the day on which the individual is successfully
- 1756 released from prison, jail, parole, or probation related to a disqualifying offense;
- 1757 (ii) during the 10 years before the day on which the individual files a petition with the
- 1758 court seeking adoption, the individual has not been convicted, pleaded guilty, or
- 1759 pleaded no contest to an offense greater than an infraction or traffic violation that
- 1760 would likely impact the health, safety, or well-being of the child;
- 1761 (iii) the individual can provide evidence of successful treatment or rehabilitation

- 1762 directly related to the disqualifying offense;
- 1763 (iv) the court determines that the risk related to the disqualifying offense is unlikely
- 1764 to cause harm, as defined in Section 80-1-102, or potential harm to the child
- 1765 currently or at any time in the future when considering all of the following:
- 1766 (A) the child's age;
- 1767 (B) the child's gender;
- 1768 (C) the child's development;
- 1769 (D) the nature and seriousness of the disqualifying offense;
- 1770 (E) the preferences of a child 12 years old or older;
- 1771 (F) any available assessments, including custody evaluations, home studies,
- 1772 pre-placement adoptive evaluations, parenting assessments, psychological or
- 1773 mental health assessments, and bonding assessments; and
- 1774 (G) any other relevant information;
- 1775 (v) the individual can provide evidence of all of the following:
- 1776 (A) the relationship with the child is of long duration;
- 1777 (B) that an emotional bond exists with the child; and
- 1778 (C) that adoption by the individual who has committed the disqualifying offense
- 1779 ensures the best interests of the child are met; and
- 1780 (vi) the adoption is by:
- 1781 (A) a stepparent whose spouse is the adoptee's parent and consents to the
- 1782 adoption; or
- 1783 (B) subject to Subsection (6)(d), a relative of the child as defined in Section
- 1784 80-3-102 and there is not another relative without a disqualifying offense filing
- 1785 an adoption petition.
- 1786 (c) The individual with the disqualifying offense bears the burden of proof regarding
- 1787 why adoption with that individual is in the best interest of the child over another
- 1788 responsible relative or equally situated individual who does not have a disqualifying
- 1789 offense.
- 1790 (d) If there is an alternative responsible relative who does not have a disqualifying
- 1791 offense filing an adoption petition, the following applies:
- 1792 (i) preference for adoption shall be given to a relative who does not have a
- 1793 disqualifying offense; and
- 1794 (ii) before the court may grant adoption to the individual who has the disqualifying
- 1795 offense over another responsible, willing, and able relative:

1796 (A) an impartial custody evaluation shall be completed; and

1797 (B) a guardian ad litem shall be assigned.

1798 (7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final
1799 decision on adoption has not been made and to a case filed on or after March 25, 2017.

1800 Section 17. Section **78B-7-801** is amended to read:

1801 **78B-7-801 . Definitions.**

1802 As used in this part:

1803 (1)(a) "Jail release agreement" means a written agreement that is entered into by an
1804 individual who is arrested or issued a citation, regardless of whether the individual is
1805 booked into jail:

1806 (i) under which the arrested or cited individual agrees to not engage in any of the
1807 following:

1808 (A) telephoning, contacting, or otherwise communicating with the alleged victim,
1809 directly or indirectly;

1810 (B) threatening or harassing the alleged victim; or

1811 (C) knowingly entering onto the premises of the alleged victim's residence or on
1812 premises temporarily occupied by the alleged victim, unless, after a law
1813 enforcement officer or the law enforcement officer's employing agency notifies
1814 or attempts to notify the alleged victim, the individual enters the premises
1815 while accompanied by a law enforcement officer for the purpose of retrieving
1816 the individual's personal belongings; and

1817 (ii) that specifies other conditions of release from jail or arrest.

1818 (b) "Jail release agreement" includes a written agreement that includes the conditions
1819 described in Section (1)(a) entered into by a minor who is taken into custody or
1820 placed in detention or a shelter facility under Section 80-6-201.

1821 (2) "Jail release court order" means a written court order that:

1822 (a) orders an arrested or cited individual not to engage in any of the following:

1823 (i) telephoning, contacting, or otherwise communicating with the alleged victim,
1824 directly or indirectly;

1825 (ii) threatening or harassing the alleged victim; or

1826 (iii) knowingly entering onto the premises of the alleged victim's residence or on
1827 premises temporarily occupied by the alleged victim, unless, after a law
1828 enforcement officer or the law enforcement officer's employing agency notifies or
1829 attempts to notify the alleged victim, the individual enters the premises while

- 1830 accompanied by a law enforcement officer for the purpose of retrieving the
1831 individual's personal belongings; and
1832 (b) specifies other conditions of release from jail.
- 1833 (3) "Minor" means the same as that term is defined in Section 80-1-102.
- 1834 (4) "Offense against a child or vulnerable adult" means the commission or attempted
1835 commission of an offense described in:
1836 (a) Section 76-5-109, child abuse;
1837 (b) Section 76-5-109.2, aggravated child abuse;
1838 (c) Section 76-5-109.3, child abandonment;
1839 (d) Section 76-5-109.4, child torture;
1840 [~~(d)~~] (e) Section 76-5-110, abuse or neglect of a child with a disability;
1841 [~~(e)~~] (f) Section 76-5-111, abuse of a vulnerable adult;
1842 [~~(f)~~] (g) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
1843 [~~(g)~~] (h) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;
1844 [~~(h)~~] (i) Section 76-5-111.4, financial exploitation of a vulnerable adult;
1845 [~~(i)~~] (j) Section 76-5-114, commission of domestic violence in the presence of a child; or
1846 [~~(j)~~] (k) Section 76-9-702.1, sexual battery.
- 1847 (5) "Qualifying offense" means:
1848 (a) domestic violence;
1849 (b) an offense against a child or vulnerable adult; or
1850 (c) the commission or attempted commission of an offense described in Section
1851 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.
- 1852 Section 18. Section **80-1-102** is amended to read:
1853 **80-1-102 . Juvenile Code definitions.**
- 1854 Except as provided in Section 80-6-1103, as used in this title:
1855 (1)(a) "Abuse" means:
1856 (i)(A) nonaccidental harm of a child;
1857 (B) threatened harm of a child;
1858 (C) sexual exploitation;
1859 (D) sexual abuse; or
1860 (E) human trafficking of a child in violation of Section 76-5-308.5; or
1861 (ii) that a child's natural parent:
1862 (A) intentionally, knowingly, or recklessly causes the death of another parent of
1863 the child;

1864 (B) is identified by a law enforcement agency as the primary suspect in an
1865 investigation for intentionally, knowingly, or recklessly causing the death of
1866 another parent of the child; or

1867 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
1868 recklessly causing the death of another parent of the child.

1869 (b) "Abuse" does not include:

1870 (i) reasonable discipline or management of a child, including withholding privileges;

1871 (ii) conduct described in Section 76-2-401; or

1872 (iii) the use of reasonable and necessary physical restraint or force on a child:

1873 (A) in self-defense;

1874 (B) in defense of others;

1875 (C) to protect the child; or

1876 (D) to remove a weapon in the possession of a child for any of the reasons
1877 described in Subsections (1)(b)(iii)(A) through (C).

1878 (2) "Abused child" means a child who has been subjected to abuse.

1879 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):

1880 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
1881 Justice:

1882 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
1883 or criminal information alleging that a minor committed an offense have been
1884 proved;

1885 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
1886 or

1887 (C) a plea of no contest by minor in the juvenile court; or

1888 (ii) for all other proceedings under this title, a finding by the juvenile court that the
1889 facts alleged in the petition have been proved.

1890 (b) "Adjudication" does not include:

1891 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
1892 enters the minor's admission; or

1893 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.

1894 (4)(a) "Adult" means an individual who is 18 years old or older.

1895 (b) "Adult" does not include an individual:

1896 (i) who is 18 years old or older; and

1897 (ii) who is a minor.

- 1898 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
1899 78A-2-801.
- 1900 (6) "Board" means the Board of Juvenile Court Judges.
- 1901 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
1902 years old.
- 1903 (8) "Child and family plan" means a written agreement between a child's parents or
1904 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 1905 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 1906 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 1907 (11) "Child protection team" means a team consisting of:
- 1908 (a) the child welfare caseworker assigned to the case;
- 1909 (b) if applicable, the child welfare caseworker who made the decision to remove the
1910 child;
- 1911 (c) a representative of the school or school district where the child attends school;
- 1912 (d) if applicable, the law enforcement officer who removed the child from the home;
- 1913 (e) a representative of the appropriate Children's Justice Center, if one is established
1914 within the county where the child resides;
- 1915 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
1916 with the child's circumstances;
- 1917 (g) if appropriate, a representative of law enforcement selected by the chief of police or
1918 sheriff in the city or county where the child resides; and
- 1919 (h) any other individuals determined appropriate and necessary by the team coordinator
1920 and chair.
- 1921 (12)(a) "Chronic abuse" means repeated or patterned abuse.
- 1922 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 1923 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 1924 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 1925 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
1926 58-37d-3.
- 1927 (15) "Commit" or "committed" means, unless specified otherwise:
- 1928 (a) with respect to a child, to transfer legal custody; and
- 1929 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 1930 (16) "Community-based program" means a nonsecure residential or nonresidential program,
1931 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least

- 1932 restrictive setting, consistent with public safety, and operated by or under contract with
1933 the Division of Juvenile Justice and Youth Services.
- 1934 (17) "Community placement" means placement of a minor in a community-based program
1935 described in Section 80-5-402.
- 1936 (18) "Correctional facility" means:
1937 (a) a county jail; or
1938 (b) a secure correctional facility as defined in Section 64-13-1.
- 1939 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
1940 minor's likelihood of reoffending.
- 1941 (20) "Department" means the Department of Health and Human Services created in Section
1942 26B-1-201.
- 1943 (21) "Dependent child" or "dependency" means a child who is without proper care through
1944 no fault of the child's parent, guardian, or custodian.
- 1945 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
1946 parent or a previous custodian to another person, agency, or institution.
- 1947 (23) "Detention" means home detention or secure detention.
- 1948 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
1949 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 1950 (25) "Detention risk assessment tool" means an evidence-based tool established under
1951 Section 80-5-203 that:
1952 (a) assesses a minor's risk of failing to appear in court or reoffending before
1953 adjudication; and
1954 (b) is designed to assist in making a determination of whether a minor shall be held in
1955 detention.
- 1956 (26) "Developmental immaturity" means incomplete development in one or more domains
1957 that manifests as a functional limitation in the minor's present ability to:
1958 (a) consult with counsel with a reasonable degree of rational understanding; and
1959 (b) have a rational as well as factual understanding of the proceedings.
- 1960 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
1961 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 1962 (28) "Educational neglect" means that, after receiving a notice of compulsory education
1963 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
1964 effort to ensure that the child receives an appropriate education.
- 1965 (29) "Educational series" means an evidence-based instructional series:

- 1966 (a) obtained at a substance abuse program that is approved by the Division of Integrated
1967 Healthcare in accordance with Section 26B-5-104; and
- 1968 (b) designed to prevent substance use or the onset of a mental health disorder.
- 1969 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 1970 (31) "Evidence-based" means a program or practice that has had multiple randomized
1971 control studies or a meta-analysis demonstrating that the program or practice is effective
1972 for a specific population or has been rated as effective by a standardized program
1973 evaluation tool.
- 1974 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 1975 (33) "Formal probation" means a minor is:
- 1976 (a) supervised in the community by, and reports to, a juvenile probation officer or an
1977 agency designated by the juvenile court; and
- 1978 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 1979 (34) "Group rehabilitation therapy" means psychological and social counseling of one or
1980 more individuals in the group, depending upon the recommendation of the therapist.
- 1981 (35) "Guardian" means a person appointed by a court to make decisions regarding a minor,
1982 including the authority to consent to:
- 1983 (a) marriage;
- 1984 (b) enlistment in the armed forces;
- 1985 (c) major medical, surgical, or psychiatric treatment; or
- 1986 (d) legal custody, if legal custody is not vested in another individual, agency, or
1987 institution.
- 1988 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 1989 (37) "Harm" means:
- 1990 (a) physical or developmental injury or damage;
- 1991 (b) emotional damage that results in a serious impairment in the child's growth,
1992 development, behavior, or psychological functioning;
- 1993 (c) sexual abuse; or
- 1994 (d) sexual exploitation.
- 1995 (38) "Home detention" means placement of a minor:
- 1996 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent
1997 of the minor's parent, guardian, or custodian, under terms and conditions established
1998 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 1999 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the

- 2000 minor's home, or in a surrogate home with the consent of the minor's parent,
2001 guardian, or custodian, under terms and conditions established by the Division of
2002 Juvenile Justice and Youth Services or the juvenile court.
- 2003 (39)(a) "Incest" means engaging in sexual intercourse with an individual whom the
2004 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
2005 aunt, nephew, niece, or first cousin.
- 2006 (b) "Incest" includes:
- 2007 (i) blood relationships of the whole or half blood, regardless of whether the
2008 relationship is legally recognized;
- 2009 (ii) relationships of parent and child by adoption; and
- 2010 (iii) relationships of stepparent and stepchild while the marriage creating the
2011 relationship of a stepparent and stepchild exists.
- 2012 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 2013 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 2014 (42) "Indigent defense service provider" means the same as that term is defined in Section
2015 78B-22-102.
- 2016 (43) "Indigent defense services" means the same as that term is defined in Section
2017 78B-22-102.
- 2018 (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 2019 (45)(a) "Intake probation" means a minor is:
- 2020 (i) monitored by a juvenile probation officer; and
- 2021 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 2022 (b) "Intake probation" does not include formal probation.
- 2023 (46) "Intellectual disability" means a significant subaverage general intellectual functioning
2024 existing concurrently with deficits in adaptive behavior that constitutes a substantial
2025 limitation to the individual's ability to function in society.
- 2026 (47) "Juvenile offender" means:
- 2027 (a) a serious youth offender; or
- 2028 (b) a youth offender.
- 2029 (48) "Juvenile probation officer" means a probation officer appointed under Section
2030 78A-6-205.
- 2031 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by
2032 the Division of Juvenile Justice and Youth Services, or under contract with the Division
2033 of Juvenile Justice and Youth Services, that is responsible for minors taken into

- 2034 temporary custody under Section 80-6-201.
- 2035 (50) "Legal custody" means a relationship embodying:
- 2036 (a) the right to physical custody of the minor;
- 2037 (b) the right and duty to protect, train, and discipline the minor;
- 2038 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
- 2039 medical care;
- 2040 (d) the right to determine where and with whom the minor shall live; and
- 2041 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 2042 (51) "Licensing Information System" means the Licensing Information System maintained
- 2043 by the Division of Child and Family Services under Section 80-2-1002.
- 2044 (52) "Management Information System" means the Management Information System
- 2045 developed by the Division of Child and Family Services under Section 80-2-1001.
- 2046 (53) "Mental illness" means:
- 2047 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
- 2048 behavioral, or related functioning; or
- 2049 (b) the same as that term is defined in:
- 2050 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
- 2051 published by the American Psychiatric Association; or
- 2052 (ii) the current edition of the International Statistical Classification of Diseases and
- 2053 Related Health Problems.
- 2054 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- 2055 (a) a child; or
- 2056 (b) an individual:
- 2057 (i)(A) who is at least 18 years old and younger than 21 years old; and
- 2058 (B) for whom the Division of Child and Family Services has been specifically
- 2059 ordered by the juvenile court to provide services because the individual was an
- 2060 abused, neglected, or dependent child or because the individual was
- 2061 adjudicated for an offense;
- 2062 (ii)(A) who is at least 18 years old and younger than 25 years old; and
- 2063 (B) whose case is under the jurisdiction of the juvenile court in accordance with
- 2064 Subsection 78A-6-103(1)(b); or
- 2065 (iii)(A) who is at least 18 years old and younger than 21 years old; and
- 2066 (B) whose case is under the jurisdiction of the juvenile court in accordance with
- 2067 Subsection 78A-6-103(1)(c).

- 2068 (55) "Mobile crisis outreach team" means the same as that term is defined in Section
2069 26B-5-101.
- 2070 (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual
2071 desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
2072 or the breast of a female child, or takes indecent liberties with a child as defined in
2073 Section 76-5-401.1.
- 2074 (57)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's
2075 biological or adoptive parent.
- 2076 (b) "Natural parent" includes the minor's noncustodial parent.
- 2077 (58)(a) "Neglect" means action or inaction causing:
- 2078 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
2079 Relinquishment of a Newborn Child;
- 2080 (ii) lack of proper parental care of a child by reason of the fault or habits of the
2081 parent, guardian, or custodian;
- 2082 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
2083 necessary subsistence or medical care, or any other care necessary for the child's
2084 health, safety, morals, or well-being;
- 2085 (iv) a child to be at risk of being neglected or abused because another child in the
2086 same home is neglected or abused;
- 2087 (v) abandonment of a child through an unregulated child custody transfer under
2088 Section 78B-24-203; or
- 2089 (vi) educational neglect.
- 2090 (b) "Neglect" does not include:
- 2091 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
2092 reason, does not provide specified medical treatment for a child;
- 2093 (ii) a health care decision made for a child by the child's parent or guardian, unless
2094 the state or other party to a proceeding shows, by clear and convincing evidence,
2095 that the health care decision is not reasonable and informed;
- 2096 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 2097 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
2098 maturity to avoid harm or unreasonable risk of harm, to engage in independent
2099 activities, including:
- 2100 (A) traveling to and from school, including by walking, running, or bicycling;
- 2101 (B) traveling to and from nearby commercial or recreational facilities;

- 2102 (C) engaging in outdoor play;
- 2103 (D) remaining in a vehicle unattended, except under the conditions described in
- 2104 Subsection 76-10-2202(2);
- 2105 (E) remaining at home unattended; or
- 2106 (F) engaging in a similar independent activity.
- 2107 (59) "Neglected child" means a child who has been subjected to neglect.
- 2108 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation
- 2109 officer, without an adjudication of the minor's case under Section 80-6-701, upon the
- 2110 consent in writing of:
- 2111 (a) the assigned juvenile probation officer; and
- 2112 (b)(i) the minor; or
- 2113 (ii) the minor and the minor's parent, guardian, or custodian.
- 2114 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual
- 2115 disability or related condition, or developmental immaturity, lacks the ability to:
- 2116 (a) understand the nature of the proceedings against the minor or of the potential
- 2117 disposition for the offense charged; or
- 2118 (b) consult with counsel and participate in the proceedings against the minor with a
- 2119 reasonable degree of rational understanding.
- 2120 (62) "Parole" means a conditional release of a juvenile offender from residency in secure
- 2121 care to live outside of secure care under the supervision of the Division of Juvenile
- 2122 Justice and Youth Services, or another person designated by the Division of Juvenile
- 2123 Justice and Youth Services.
- 2124 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 2125 (64)(a) "Probation" means a legal status created by court order, following an
- 2126 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
- 2127 minor's home under prescribed conditions.
- 2128 (b) "Probation" includes intake probation or formal probation.
- 2129 (65) "Prosecuting attorney" means:
- 2130 (a) the attorney general and any assistant attorney general;
- 2131 (b) any district attorney or deputy district attorney;
- 2132 (c) any county attorney or assistant county attorney; and
- 2133 (d) any other attorney authorized to commence an action on behalf of the state.
- 2134 (66) "Protective custody" means the shelter of a child by the Division of Child and Family
- 2135 Services from the time the child is removed from the home until the earlier of:

- 2136 (a) the day on which the shelter hearing is held under Section 80-3-301; or
2137 (b) the day on which the child is returned home.
- 2138 (67) "Protective services" means expedited services that are provided:
- 2139 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 2140 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 2141 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
2142 causes of neglect or abuse; and
- 2143 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 2144 (c) in cases where the child's welfare is endangered:
- 2145 (i) to bring the situation to the attention of the appropriate juvenile court and law
2146 enforcement agency;
- 2147 (ii) to cause a protective order to be issued for the protection of the child, when
2148 appropriate; and
- 2149 (iii) to protect the child from the circumstances that endanger the child's welfare
2150 including, when appropriate:
- 2151 (A) removal from the child's home;
- 2152 (B) placement in substitute care; and
- 2153 (C) petitioning the court for termination of parental rights.
- 2154 (68) "Protective supervision" means a legal status created by court order, following an
2155 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 2156 (a) the minor is permitted to remain in the minor's home; and
- 2157 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
2158 by an agency designated by the juvenile court.
- 2159 (69)(a) "Related condition" means a condition that:
- 2160 (i) is found to be closely related to intellectual disability;
- 2161 (ii) results in impairment of general intellectual functioning or adaptive behavior
2162 similar to that of an intellectually disabled individual;
- 2163 (iii) is likely to continue indefinitely; and
- 2164 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 2165 (b) "Related condition" does not include mental illness, psychiatric impairment, or
2166 serious emotional or behavioral disturbance.
- 2167 (70)(a) "Residual parental rights and duties" means the rights and duties remaining with
2168 a parent after legal custody or guardianship, or both, have been vested in another
2169 person or agency, including:

- 2170 (i) the responsibility for support;
- 2171 (ii) the right to consent to adoption;
- 2172 (iii) the right to determine the child's religious affiliation; and
- 2173 (iv) the right to reasonable parent-time unless restricted by the court.
- 2174 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
- 2175 right to consent to:
- 2176 (i) marriage;
- 2177 (ii) enlistment; and
- 2178 (iii) major medical, surgical, or psychiatric treatment.
- 2179 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the
- 2180 home of the child's parent or guardian, or the lawfully prescribed residence of the child,
- 2181 without permission.
- 2182 (72) "Secure care" means placement of a minor, who is committed to the Division of
- 2183 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
- 2184 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
- 2185 supervision and confinement of the minor.
- 2186 (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503,
- 2187 for juvenile offenders in secure care.
- 2188 (74) "Secure detention" means temporary care of a minor who requires secure custody in a
- 2189 physically restricting facility operated by, or under contract with, the Division of
- 2190 Juvenile Justice and Youth Services:
- 2191 (a) before disposition of an offense that is alleged to have been committed by the minor;
- 2192 or
- 2193 (b) under Section 80-6-704.
- 2194 (75) "Serious youth offender" means an individual who:
- 2195 (a) is at least 14 years old, but under 25 years old;
- 2196 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
- 2197 of the juvenile court was extended over the individual's case until the individual was
- 2198 25 years old in accordance with Section 80-6-605; and
- 2199 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
- 2200 Services for secure care under Sections 80-6-703 and 80-6-705.
- 2201 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- 2202 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
- 2203 child.

- 2204 (78)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection
 2205 (78)(b):
- 2206 (i) if committed by an individual who is 18 years old or older:
 - 2207 (A) chronic abuse;
 - 2208 (B) severe abuse;
 - 2209 (C) sexual abuse;
 - 2210 (D) sexual exploitation;
 - 2211 (E) abandonment;
 - 2212 (F) chronic neglect; or
 - 2213 (G) severe neglect; or
 - 2214 (ii) if committed by an individual who is under 18 years old:
 - 2215 (A) causing serious [~~physical~~]injury, as defined in Subsection 76-5-109(1), to
 - 2216 another child that indicates a significant risk to other children; or
 - 2217 (B) sexual behavior with or upon another child that indicates a significant risk to
 - 2218 other children.
- 2219 (b) "Severe type of child abuse or neglect" does not include:
- 2220 (i) the use of reasonable and necessary physical restraint by an educator in
 - 2221 accordance with Subsection 53G-8-302(2) or Section 76-2-401;
 - 2222 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
 - 2223 use of reasonable and necessary physical restraint or force in self-defense or
 - 2224 otherwise appropriate to the circumstances to obtain possession of a weapon or
 - 2225 other dangerous object in the possession or under the control of a child or to
 - 2226 protect the child or another individual from physical injury; or
 - 2227 (iii) a health care decision made for a child by a child's parent or guardian, unless,
 - 2228 subject to Subsection (78)(c), the state or other party to the proceeding shows, by
 - 2229 clear and convincing evidence, that the health care decision is not reasonable and
 - 2230 informed.
- 2231 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the
- 2232 right to obtain a second health care opinion.
- 2233 (79) "Sexual abuse" means:
- 2234 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
 - 2235 adult directed towards a child;
 - 2236 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
 - 2237 committed by a child towards another child if:

- 2238 (i) there is an indication of force or coercion;
- 2239 (ii) the children are related, as described in Subsection (39), including siblings by
- 2240 marriage while the marriage exists or by adoption;
- 2241 (iii) there have been repeated incidents of sexual contact between the two children,
- 2242 unless the children are 14 years old or older; or
- 2243 (iv) there is a disparity in chronological age of four or more years between the two
- 2244 children;
- 2245 (c) engaging in any conduct with a child that would constitute an offense under any of
- 2246 the following, regardless of whether the individual who engages in the conduct is
- 2247 actually charged with, or convicted of, the offense:
- 2248 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
- 2249 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 2250 (ii) child bigamy, Section 76-7-101.5;
- 2251 (iii) incest, Section 76-7-102;
- 2252 (iv) lewdness, Section 76-9-702;
- 2253 (v) sexual battery, Section 76-9-702.1;
- 2254 (vi) lewdness involving a child, Section 76-9-702.5; or
- 2255 (vii) voyeurism, Section 76-9-702.7; or
- 2256 (d) subjecting a child to participate in or threatening to subject a child to participate in a
- 2257 sexual relationship, regardless of whether that sexual relationship is part of a legal or
- 2258 cultural marriage.
- 2259 (80) "Sexual exploitation" means knowingly:
- 2260 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 2261 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 2262 (ii) engage in any sexual or simulated sexual conduct for the purpose of
- 2263 photographing, filming, recording, or displaying in any way the sexual or
- 2264 simulated sexual conduct;
- 2265 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
- 2266 depicting a child:
- 2267 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 2268 (ii) engaging in sexual or simulated sexual conduct; or
- 2269 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
- 2270 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
- 2271 exploitation of a minor, regardless of whether the individual who engages in the

- 2272 conduct is actually charged with, or convicted of, the offense.
- 2273 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
2274 pending a disposition or transfer to another jurisdiction.
- 2275 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 2276 (83) "Significant risk" means a risk of harm that is determined to be significant in
2277 accordance with risk assessment tools and rules established by the Division of Child and
2278 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
2279 Rulemaking Act, that focus on:
- 2280 (a) age;
- 2281 (b) social factors;
- 2282 (c) emotional factors;
- 2283 (d) sexual factors;
- 2284 (e) intellectual factors;
- 2285 (f) family risk factors; and
- 2286 (g) other related considerations.
- 2287 (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 2288 (85) "Status offense" means an offense that would not be an offense but for the age of the
2289 offender.
- 2290 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or
2291 excessive use of alcohol or other drugs or substances.
- 2292 (87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance
2293 of the evidence, and separate consideration of each allegation made or identified in the
2294 case, that abuse, neglect, or dependency occurred .
- 2295 (88) "Substitute care" means:
- 2296 (a) the placement of a minor in a family home, group care facility, or other placement
2297 outside the minor's own home, either at the request of a parent or other responsible
2298 relative, or upon court order, when it is determined that continuation of care in the
2299 minor's own home would be contrary to the minor's welfare;
- 2300 (b) services provided for a minor in the protective custody of the Division of Child and
2301 Family Services, or a minor in the temporary custody or custody of the Division of
2302 Child and Family Services, as those terms are defined in Section 80-2-102; or
- 2303 (c) the licensing and supervision of a substitute care facility.
- 2304 (89) "Supported" means a finding by the Division of Child and Family Services based on
2305 the evidence available at the completion of an investigation, and separate consideration

- 2306 of each allegation made or identified during the investigation, that there is a reasonable
2307 basis to conclude that abuse, neglect, or dependency occurred.
- 2308 (90) "Termination of parental rights" means the permanent elimination of all parental rights
2309 and duties, including residual parental rights and duties, by court order.
- 2310 (91) "Therapist" means:
- 2311 (a) an individual employed by a state division or agency for the purpose of conducting
2312 psychological treatment and counseling of a minor in the division's or agency's
2313 custody; or
- 2314 (b) any other individual licensed or approved by the state for the purpose of conducting
2315 psychological treatment and counseling.
- 2316 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that
2317 the child is at an unreasonable risk of harm or neglect.
- 2318 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- 2319 (a) results in behavior that is beyond the control or ability of the child, or the parent or
2320 guardian, to manage effectively;
- 2321 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
2322 (c) results in the situations described in Subsections (93)(a) and (b).
- 2323 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
2324 conclude that abuse, neglect, or dependency occurred.
- 2325 (95) "Unsupported" means a finding by the Division of Child and Family Services at the
2326 completion of an investigation, after the day on which the Division of Child and Family
2327 Services concludes the alleged abuse, neglect, or dependency is not without merit, that
2328 there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.
- 2329 (96) "Validated risk and needs assessment" means an evidence-based tool that assesses a
2330 minor's risk of reoffending and a minor's criminogenic needs.
- 2331 (97) "Without merit" means a finding at the completion of an investigation by the Division
2332 of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or
2333 dependency did not occur, or that the alleged perpetrator was not responsible for the
2334 abuse, neglect, or dependency.
- 2335 (98) "Youth offender" means an individual who is:
- 2336 (a) at least 12 years old, but under 21 years old; and
2337 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
2338 Services for secure care under Sections 80-6-703 and 80-6-705.
- 2339 Section 19. Section **81-9-202** is amended to read:

2340 **81-9-202 . Advisory guidelines for a custody and parent-time arrangement.**

- 2341 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304,
2342 the following advisory guidelines are suggested to govern a custody and parent-time
2343 arrangement between parents.
- 2344 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a
2345 court-imposed solution.
- 2346 (3) A parent-time schedule shall be used to maximize the continuity and stability of the
2347 minor child's life.
- 2348 (4) Each parent shall give special consideration to make the minor child available to attend
2349 family functions including funerals, weddings, family reunions, religious holidays,
2350 important ceremonies, and other significant events in the life of the minor child or in the
2351 life of either parent which may inadvertently conflict with the parent-time schedule.
- 2352 (5)(a) The court shall determine the responsibility for the pick up, delivery, and return of
2353 the minor child when the parent-time order is entered.
- 2354 (b) The court may change the responsibility described in Subsection (5)(a) at any time a
2355 subsequent modification is made to the parent-time order.
- 2356 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
2357 (i) have the minor child ready for parent-time at the time the minor child is to be
2358 picked up ; and
2359 (ii) be present at the custodial home or make reasonable alternate arrangements to
2360 receive the minor child at the time the minor child is returned.
- 2361 (d) If the custodial parent will be transporting the minor child, the noncustodial parent
2362 shall:
2363 (i) be at the appointed place at the time the noncustodial parent is to receive the
2364 minor child; and
2365 (ii) have the minor child ready to be picked up at the appointed time and place or
2366 have made reasonable alternate arrangements for the custodial parent to pick up
2367 the minor child.
- 2368 (6) A parent may not interrupt regular school hours for a school-age minor child for the
2369 exercise of parent-time.
- 2370 (7) The court may:
2371 (a) make alterations in the parent-time schedule to reasonably accommodate the work
2372 schedule of both parents; and
2373 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the

- 2374 standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 2375 (8) The court may make alterations in the parent-time schedule to reasonably accommodate
2376 the distance between the parties and the expense of exercising parent-time.
- 2377 (9) A parent may not withhold parent-time or child support due to the other parent's failure
2378 to comply with a court-ordered parent-time schedule.
- 2379 (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of
2380 receiving notice of all significant school, social, sports, and community functions in
2381 which the minor child is participating or being honored.
- 2382 (b) The noncustodial parent is entitled to attend and participate fully in the functions
2383 described in Subsection (10)(a).
- 2384 (c) The noncustodial parent shall have access directly to all school reports including
2385 preschool and daycare reports and medical records.
- 2386 (d) A parent shall immediately notify the other parent in the event of a medical
2387 emergency.
- 2388 (11) Each parent shall provide the other with the parent's current address and telephone
2389 number, email address, and other virtual parent-time access information within 24 hours
2390 of any change.
- 2391 (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and
2392 uncensored communications with the minor child, in the form of mail privileges and
2393 virtual parent-time if the equipment is reasonably available.
- 2394 (b) If the parents cannot agree on whether the equipment is reasonably available, the
2395 court shall decide whether the equipment for virtual parent-time is reasonably [
2396 ~~available~~by] available by taking into consideration:
- 2397 (i) the best interests of the minor child;
- 2398 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
- 2399 (iii) any other factors the court considers material.
- 2400 (13)(a) Parental care is presumed to be better care for the minor child than surrogate care.
- 2401 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
2402 parent, if willing and able to transport the minor child, to provide the child care.
- 2403 (c) Child care arrangements existing during the marriage are preferred as are child care
2404 arrangements with nominal or no charge.
- 2405 (14) Each parent shall:
- 2406 (a) provide all surrogate care providers with the name, current address, and telephone
2407 number of the other parent; and

- 2408 (b) provide the noncustodial parent with the name, current address, and telephone
2409 number of all surrogate care providers unless the court for good cause orders
2410 otherwise.
- 2411 (15)(a) Each parent is entitled to an equal division of major religious holidays celebrated
2412 by the parents.
- 2413 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
2414 shall have the right to be together with the minor child on the religious holiday.
- 2415 (16) If the minor child is on a different parent-time schedule than a sibling, based on
2416 Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for
2417 parent-time with all the minor children so that parent-time is uniform between school
2418 aged and nonschool aged children, is appropriate.
- 2419 (17)(a) When one or both parents are servicemembers or contemplating joining a
2420 uniformed service, the parents should resolve issues of custodial responsibility in the
2421 event of deployment as soon as practicable through reaching a voluntary agreement
2422 pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.
- 2423 (b) Service members shall ensure their family care plan reflects orders and agreements
2424 entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents
2425 Custody, Parent-time, and Visitation Act.
- 2426 (18) A parent shall immediately notify the other parent if:
- 2427 (a) the parent resides with an individual or provides an individual with access to the
2428 minor child; and
- 2429 (b) the parent knows that the individual:
- 2430 (i) is required to register as a sex offender or a kidnap offender for an offense against
2431 a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 2432 (ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child
2433 Abuse Offender Registry; or
- 2434 (iii) has been convicted of:
- 2435 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
2436 76-5-109.4, 76-5-114, or 76-5-208;
- 2437 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
2438 Offenses;
- 2439 (C) an offense for kidnapping or human trafficking of a minor child under Title
2440 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 2441 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,

2442 Sexual Exploitation Act; or
2443 (E) an offense that is substantially similar to an offense under Subsections
2444 (18)(b)(iii)(A) through (D).

2445 (19)(a) For emergency purposes, whenever the minor child travels with a parent, the
2446 parent shall provide the following information to the other parent:

- 2447 (i) an itinerary of travel dates;
2448 (ii) destinations;
2449 (iii) places where the minor child or traveling parent can be reached; and
2450 (iv) the name and telephone number of an available third person who would be
2451 knowledgeable of the minor child's location.

2452 (b) Unchaperoned travel of a minor child under the age of five years is not
2453 recommended.

2454 Section 20. Section **81-9-207** is amended to read:

2455 **81-9-207 . Supervised parent-time.**

2456 (1) If it is necessary to protect a minor child and there is no less restrictive means
2457 reasonably available, and in accordance with Section 81-9-104, a court may order
2458 supervised parent-time if the court finds evidence that the minor child would be subject
2459 to physical or emotional harm or child abuse, as described in Sections 76-5-109,
2460 76-5-109.2, 76-5-109.3, 76-5-109.4, 76-5-114, and 80-1-102, from the noncustodial
2461 parent if left unsupervised with the noncustodial parent.

2462 (2) If the court finds evidence of domestic violence, child abuse, or an ongoing risk to a
2463 child, and orders supervised parent-time, the court shall give preference to supervision
2464 by a professional individual or private agency trained in child abuse reporting laws, the
2465 developmental needs of a child, and the dynamics of domestic violence, child abuse,
2466 sexual abuse, and substance abuse.

2467 (3) If a professional individual or private agency described in Subsection (2) is not
2468 available, affordable, or practicable under the circumstances, a court shall give
2469 preference to supervision by an individual who is:

2470 (a) capable and willing to provide physical and psychological safety and security to the
2471 minor child, and to assist in the avoidance and prevention of domestic and family
2472 violence; and

2473 (b) is trained in child abuse reporting laws, the developmental needs of a child, and the
2474 dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

2475 (4) If an individual described in Subsection (2) or (3) is not available, affordable, or

2476 practicable under the circumstances, or if the court does not find evidence of domestic
2477 violence, child abuse, or an ongoing risk to a minor child, a court may order supervised
2478 parent-time that is supervised by an individual who is willing to supervise, and is
2479 capable of protecting the minor child from physical or emotional harm, or child abuse,
2480 and the court shall give preference to individuals suggested by the parties, including
2481 relatives.

2482 (5) At the time supervised parent-time is imposed, the court shall consider:

2483 (a) whether the cost of professional or agency services is likely to prevent the
2484 noncustodial parent from exercising parent-time; and

2485 (b) whether the requirement for supervised parent-time should expire after a set period
2486 of time.

2487 (6)(a) Except when the court makes a finding that, due to abuse by or the incapacity of
2488 the noncustodial parent, supervised parent-time will be necessary indefinitely to
2489 ensure the physical or psychological safety and protection of the minor child, the
2490 court shall, in its order for supervised parent-time, provide specific goals and
2491 expectations for the noncustodial parent to accomplish before unsupervised
2492 parent-time may be granted.

2493 (b) The court shall schedule one or more follow-up hearings to revisit the issue of
2494 supervised parent-time.

2495 (7) A noncustodial parent may, at any time, petition the court to modify the order for
2496 supervised parent-time if the noncustodial parent can demonstrate that the specific goals
2497 and expectations set by the court as described in Subsection (6) have been accomplished.

2498 Section 21. Section **81-9-208** is amended to read:

2499 **81-9-208 . Modification or termination of a custody or parent-time order --**

2500 **Noncompliance with a parent-time order.**

2501 (1) The court has continuing jurisdiction to make subsequent changes to modify:

2502 (a) custody of a minor child if there is a showing of a substantial and material change in
2503 circumstances since the entry of the order; and

2504 (b) parent-time for a minor child if there is a showing that there is a change in
2505 circumstances since the entry of the order.

2506 (2) A substantial and material change in circumstances under Subsection (1)(a) includes a
2507 showing by a parent that the other parent:

2508 (a) resides with an individual or provides an individual with access to the minor child;
2509 and

- 2510 (b) knows that the individual:
- 2511 (i) is required to register as a sex offender or a kidnap offender for an offense against
- 2512 a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 2513 (ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child
- 2514 Abuse Offender Registry; or
- 2515 (iii) has been convicted of:
- 2516 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
- 2517 76-5-109.4, 76-5-114, or 76-5-208;
- 2518 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
- 2519 Offenses;
- 2520 (C) an offense for kidnapping or human trafficking of a minor child under Title
- 2521 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 2522 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
- 2523 Sexual Exploitation Act; or
- 2524 (E) an offense that is substantially similar to an offense under Subsections
- 2525 (2)(b)(iii)(A) through (D).
- 2526 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if
- 2527 they are not the parents, the court may, after a hearing, modify or terminate an order that
- 2528 established joint legal custody or joint physical custody if:
- 2529 (a) the verified petition or accompanying affidavit initially alleges that admissible
- 2530 evidence will show that there has been a substantial and material change in the
- 2531 circumstances of the minor child or one or both parents or joint legal or physical
- 2532 custodians since the entry of the order to be modified;
- 2533 (b) a modification of the terms and conditions of the order would be an improvement for
- 2534 and in the best interest of the minor child; and
- 2535 (c)(i) both parents have complied in good faith with the dispute resolution procedure
- 2536 in accordance with Subsection 81-9-205(8); or
- 2537 (ii) if no dispute resolution procedure is contained in the order that established joint
- 2538 legal custody or joint physical custody, the court orders the parents to participate
- 2539 in a dispute resolution procedure in accordance with Subsection 81-9-205(13)
- 2540 unless the parents certify that, in good faith, they have used a dispute resolution
- 2541 procedure to resolve their dispute.
- 2542 (4)(a) In determining whether the best interest of a minor child will be served by either
- 2543 modifying or terminating the joint legal custody or joint physical custody order, the

- 2544 court shall, in addition to other factors the court considers relevant, consider the
2545 factors described in Sections 81-9-204 and 81-9-205.
- 2546 (b) A court order modifying or terminating an existing joint legal custody or joint
2547 physical custody order shall contain written findings that:
- 2548 (i) a substantial and material change of circumstance has occurred; and
2549 (ii) a modification of the terms and conditions of the order would be an improvement
2550 for and in the best interest of the minor child.
- 2551 (c) The court shall give substantial weight to the existing joint legal custody or joint
2552 physical custody order when the minor child is thriving, happy, and well-adjusted.
- 2553 (5) The court shall, in every case regarding a petition for termination of a joint legal
2554 custody or joint physical custody order, consider reasonable alternatives to preserve the
2555 existing order in accordance with Section 81-9-204.
- 2556 (6) The court may modify the terms and conditions of the existing order in accordance with
2557 this chapter and may order the parents to file a parenting plan in accordance with
2558 Section 81-9-203.
- 2559 (7) A parent requesting a modification from sole custody to joint legal custody or joint
2560 physical custody or both, or any other type of shared parenting arrangement, shall file
2561 and serve a proposed parenting plan with the petition to modify in accordance with
2562 Section 81-9-203.
- 2563 (8) If an issue before the court involves custodial responsibility in the event of deployment
2564 of one or both parents who are service members, and the service member has not yet
2565 been notified of deployment, the court shall resolve the issue based on the standards in
2566 Sections 78B-20-306 through 78B-20-309.
- 2567 (9) If the court finds that an action to modify custody or parent-time is filed or answered
2568 frivolously and, in a manner, designed to harass the other party, the court shall assess
2569 attorney fees as costs against the offending party.
- 2570 (10) If a petition to modify custody or parent-time provisions of a court order is made and
2571 denied, the court shall order the petitioner to pay the reasonable attorney fees expended
2572 by the prevailing party in that action if the court determines that the petition was without
2573 merit and not asserted or defended against in good faith.
- 2574 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a
2575 visitation order by a grandparent or other member of the immediate family where a
2576 visitation or parent-time right has been previously granted by the court, the court:
2577 (a) may award to the prevailing party:

- 2578 (i) actual attorney fees incurred;
- 2579 (ii) the costs incurred by the prevailing party because of the other party's failure to
- 2580 provide or exercise court-ordered visitation or parent-time, including:
- 2581 (A) court costs;
- 2582 (B) child care expenses;
- 2583 (C) transportation expenses actually incurred;
- 2584 (D) lost wages, if ascertainable; or
- 2585 (E) counseling for a parent or a minor child if ordered or approved by the court; or
- 2586 (iii) any other appropriate equitable remedy; and
- 2587 (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up
- 2588 parent-time is not in the best interest of the minor child.

2589 Section 22. Section **81-9-402** is amended to read:

2590 **81-9-402 . Custody and visitation for individuals other than a parent -- Venue.**

- 2591 (1)(a) In accordance with Section 80-2a-201, it is the public policy of this state that a
- 2592 parent retain the fundamental right and duty to exercise primary control over the care,
- 2593 supervision, upbringing, and education of a minor child of the parent.
- 2594 (b) There is a rebuttable presumption that a parent's decisions are in the minor child's
- 2595 best interests.
- 2596 (2) A court may find the presumption in Subsection (1) rebutted and grant custodial or
- 2597 visitation rights to an individual other than a parent who, by clear and convincing
- 2598 evidence, establishes that:
- 2599 (a) the individual has intentionally assumed the role and obligations of a parent;
- 2600 (b) the individual and the minor child have formed a substantial emotional bond and
- 2601 created a parent-child type relationship;
- 2602 (c) the individual substantially contributed emotionally or financially to the minor child's
- 2603 well being;
- 2604 (d) the assumption of the parental role is not the result of a financially compensated
- 2605 surrogate care arrangement;
- 2606 (e) the continuation of the relationship between the individual and the minor child is in
- 2607 the minor child's best interest;
- 2608 (f) the loss or cessation of the relationship between the individual and the minor child
- 2609 would substantially harm the minor child; and
- 2610 (g) the parent:
- 2611 (i) is absent; or

- 2612 (ii) is found by a court to have abused or neglected the minor child.
- 2613 (3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350,
2614 an individual shall file a verified petition, or a petition supported by an affidavit, for
2615 custodial or visitation rights to the minor child in the juvenile court if a matter is pending
2616 in the juvenile court, or in the district court in the county where the minor child:
2617 (a) currently resides; or
2618 (b) lived with a parent or an individual other than a parent who acted as a parent within
2619 six months before the commencement of the action.
- 2620 (4) An individual may file a petition under this section in a pending divorce, parentage
2621 action, or other proceeding, including a proceeding in the juvenile court involving
2622 custody of or visitation with a minor child.
- 2623 (5) The petition shall include detailed facts supporting the petitioner's right to file the
2624 petition including the criteria set forth in Subsection (2) and residency information
2625 described in Section 78B-13-209.
- 2626 (6) An individual may not file a petition under this section against a parent who is actively
2627 serving outside the state in any branch of the military.
- 2628 (7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the
2629 Utah Rules of Civil Procedure on all of the following:
2630 (a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;
2631 (b) any individual who has court-ordered custody or visitation rights;
2632 (c) the minor child's guardian;
2633 (d) the guardian ad litem, if one has been appointed;
2634 (e) an individual or agency that has physical custody of the minor child or that claims to
2635 have custody or visitation rights; and
2636 (f) any other individual or agency that has previously appeared in any action regarding
2637 custody of or visitation with the minor child.
- 2638 (8) The court may order a custody evaluation to be conducted in any proceeding brought
2639 under this section.
- 2640 (9) The court may enter temporary orders in a proceeding brought under this section
2641 pending the entry of final orders.
- 2642 (10) Except as provided in Subsection (11), a court may not grant custody of a minor child
2643 under this section to an individual:
2644 (a) who is not the parent of the minor child; and
2645 (b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no

- 2646 contest to a felony or attempted felony involving conduct that constitutes any of the
2647 following:
- 2648 (i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4,
2649 and 76-5-114;
 - 2650 (ii) child abuse homicide, as described in Section 76-5-208;
 - 2651 (iii) child kidnapping, as described in Section 76-5-301.1;
 - 2652 (iv) human trafficking of a child, as described in Section 76-5-308.5;
 - 2653 (v) sexual abuse of a minor, as described in Section 76-5-401.1;
 - 2654 (vi) rape of a child, as described in Section 76-5-402.1;
 - 2655 (vii) object rape of a child, as described in Section 76-5-402.3;
 - 2656 (viii) sodomy on a child, as described in Section 76-5-403.1;
 - 2657 (ix) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual
2658 abuse of a child, as described in Section 76-5-404.3;
 - 2659 (x) sexual exploitation of a minor, as described in Section 76-5b-201;
 - 2660 (xi) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or
2661 (xii) an offense in another state that, if committed in this state, would constitute an
2662 offense described in this Subsection (10).
- 2663 (11)(a) As used in this Subsection (11), "disqualifying offense" means an offense listed
2664 in Subsection (10) that prevents a court from granting custody except as provided in
2665 this Subsection (11).
- 2666 (b) An individual described in Subsection (10) may only be considered for custody of a
2667 minor child if the following criteria are met by clear and convincing evidence:
- 2668 (i) the individual is a relative, as defined in Section 80-3-102, of the minor child;
 - 2669 (ii) at least 10 years have elapsed from the day on which the individual is
2670 successfully released from prison, jail, parole, or probation related to a
2671 disqualifying offense;
 - 2672 (iii) during the 10 years before the day on which the individual files a petition with
2673 the court seeking custody the individual has not been convicted, plead guilty, or
2674 plead no contest to an offense greater than an infraction or traffic violation that
2675 would likely impact the health, safety, or well-being of the minor child;
 - 2676 (iv) the individual can provide evidence of successful treatment or rehabilitation
2677 directly related to the disqualifying offense;
 - 2678 (v) the court determines that the risk related to the disqualifying offense is unlikely to
2679 cause harm, as defined in Section 80-1-102, or potential harm to the minor child

- 2680 currently or at any time in the future when considering all of the following:
- 2681 (A) the minor child's age;
- 2682 (B) the minor child's gender;
- 2683 (C) the minor child's development;
- 2684 (D) the nature and seriousness of the disqualifying offense;
- 2685 (E) the preferences of a minor child who is 12 years old or older;
- 2686 (F) any available assessments, including custody evaluations, parenting
- 2687 assessments, psychological or mental health assessments, and bonding
- 2688 assessments; and
- 2689 (G) any other relevant information;
- 2690 (vi) the individual can provide evidence of the following:
- 2691 (A) the relationship with the minor child is of long duration;
- 2692 (B) that an emotional bond exists with the minor child; and
- 2693 (C) that custody by the individual who has committed the disqualifying offense
- 2694 ensures the best interests of the minor child are met;
- 2695 (vii)(A) there is no other responsible relative known to the court who has or likely
- 2696 could develop an emotional bond with the minor child and does not have a
- 2697 disqualifying offense; or
- 2698 (B) if there is a responsible relative known to the court that does not have a
- 2699 disqualifying offense, Subsection (11)(d) applies; and
- 2700 (viii) that the continuation of the relationship between the individual with the
- 2701 disqualifying offense and the minor child could not be sufficiently maintained
- 2702 through any type of visitation if custody were given to the relative with no
- 2703 disqualifying offense described in Subsection (11)(d).
- 2704 (c) The individual with the disqualifying offense bears the burden of proof regarding
- 2705 why placement with that individual is in the best interest of the minor child over
- 2706 another responsible relative or equally situated individual who does not have a
- 2707 disqualifying offense.
- 2708 (d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to
- 2709 the court who does not have a disqualifying offense:
- 2710 (i) preference for custody is given to a relative who does not have a disqualifying
- 2711 offense; and
- 2712 (ii) before the court may place custody with the individual who has the disqualifying
- 2713 offense over another responsible, willing, and able relative:

2714 (A) an impartial custody evaluation shall be completed; and

2715 (B) a guardian ad litem shall be assigned.

2716 (12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final
2717 decision on custody has not been made and to a case filed on or after March 25, 2017.

2718 Section 23. **Effective Date.**

2719 This bill takes effect on May 7, 2025.

2720 Section 24. **Coordinating S.B. 24 with H.B. 78.**

2721 If S.B. 24, Child Abuse and Torture Amendments, and H.B. 78, Criminal Offenses
2722 Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the
2723 following language be inserted as Subsection 76-3-406(2)(b) in H.B. 78 and that the existing
2724 subsections in Subsection 76-3-406(2) in H.B. 78 be renumbered accordingly:
2725 "(b) child torture as described in Section 76-5-109.4;".

2726 Section 25. **Coordinating S.B. 24 with S.B. 41 if H.B. 21 does not pass and become law.**

2727 If S.B. 24, Child Abuse and Torture Amendments, and S.B. 41, Sex, Kidnap, and
2728 Child Abuse Offender Registry Amendments, both pass and become law, and H.B. 21,
2729 Criminal Code Recodification and Cross References, does not pass and become law, the
2730 Legislature intends that, on May 7, 2025:

2731 (1) Section 53-29-202, enacted in S.B. 41, be amended to read:

2732 "(1) An individual is an offender described in Subsection (2) and subject to the
2733 requirements, restrictions, and penalties described in this chapter if the individual:

2734 (a) has been convicted in this state of:

2735 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

2736 (ii) child torture under Section 76-5-109.4;

2737 (iii) a felony or class A misdemeanor violation of enticing a minor under Section
2738 76-4-401;

2739 (iv) sexual exploitation of a vulnerable adult under Section 76-5b-202;

2740 (v) human trafficking for sexual exploitation under Section 76-5-308.1;

2741 (vi) human trafficking of a child for sexual exploitation under Subsection
2742 76-5-308.5(4)(b);

2743 (vii) aggravated human trafficking for sexual exploitation under Section 76-5-310;

2744 (viii) human trafficking of a vulnerable adult for sexual exploitation under Section
2745 76-5-311;

2746 (ix) unlawful sexual activity with a minor under Section 76-5-401, except as
2747 provided in Subsection 76-5-401(3)(b) or (c);

_2748 (x) sexual abuse of a minor under Section 76-5-401.1, on the individual's first
_2749 offense unless the individual was younger than 21 years old at the time of the offense then on
_2750 the individual's second offense;

_2751 (xi) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

_2752 (xii) rape under Section 76-5-402;

_2753 (xiii) rape of a child under Section 76-5-402.1;

_2754 (xiv) object rape under Section 76-5-402.2;

_2755 (xv) object rape of a child under Section 76-5-402.3;

_2756 (xvi) a felony violation of forcible sodomy under Section 76-5-403;

_2757 (xvii) sodomy on a child under Section 76-5-403.1;

_2758 (xviii) forcible sexual abuse under Section 76-5-404;

_2759 (xix) sexual abuse of a child under Section 76-5-404.1;

_2760 (xx) aggravated sexual abuse of a child under Section 76-5-404.3;

_2761 (xxi) aggravated sexual assault under Section 76-5-405;

_2762 (xxii) custodial sexual relations under Section 76-5-412, if the victim in custody is
_2763 younger than 18 years old and the offense is committed on or after May 10, 2011;

_2764 (xxiii) sexual exploitation of a minor under Section 76-5b-201;

_2765 (xxiv) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

_2766 (xxv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

_2767 (xxvi) incest under Section 76-7-102;

_2768 (xxvii) lewdness under Section 76-9-702, if the individual has been convicted of
_2769 the offense four or more times;

_2770 (xxviii) sexual battery under Section 76-9-702.1, if the individual has been
_2771 convicted of the offense four or more times;

_2772 (xxix) any combination of convictions of lewdness under Section 76-9-702, and of
_2773 sexual battery under Section 76-9-702.1, that total four or more convictions;

_2774 (xxx) lewdness involving a child under Section 76-9-702.5;

_2775 (xxxi) a felony or class A misdemeanor violation of voyeurism under Section
_2776 76-9-702.7;

_2777 (xxxii) aggravated exploitation of prostitution under Section 76-10-1306;

_2778 (xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was
_2779 not the natural parent of the child victim;

_2780 (xxxiv) child kidnapping under Section 76-5-301.1, if the offender was not the
_2781 natural parent of the child victim;

(xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(xxxvi) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(xxxvii) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(xxxviii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(xxxix) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(xl) aggravated human smuggling under Section 76-5-310.1, if the offender was not the natural parent of the child victim;

(xli) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the offender was not the natural parent of the child victim; or

(xlii) attempting, soliciting, or conspiring to commit a felony violation of an offense listed in Subsections (1)(a)(i) through (xli);

(b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or conspiracy to commit a criminal offense in an external jurisdiction that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii)(A) is a Utah resident; or

(B) is not a Utah resident and is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(c)(i)(A) is required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

(B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(d)(i)(A) is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

2816 (ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially
2817 equivalent offense in an external jurisdiction; or

2818 (B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent
2819 registry, in the individual's state of residence based on a conviction for an offense that is not
2820 substantially equivalent to an offense listed in Subsection (1)(a);

2821 (e) is found not guilty by reason of insanity in this state or in an external jurisdiction of
2822 an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

2823 (f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection
2824 (1)(a); and

2825 (ii) has been committed to the division for secure care, as defined in Section 80-1-102,
2826 for that offense if:

2827 (A) the individual remains in the division's custody until 30 days before the
2828 individual's 21st birthday;

2829 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
2830 under Section 80-6-605 and the individual remains in the division's custody until 30 days
2831 before the individual's 25th birthday; or

2832 (C) the individual is moved from the division's custody to the custody of the
2833 department before expiration of the division's jurisdiction over the individual.

2834 (2) Subject to Subsection (3), an individual is:

2835 (a) a child abuse offender if the individual:

2836 (i) has committed, attempted, solicited, or conspired to commit an offense described
2837 in Subsections (1)(a)(i) through (ii); or

2838 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
2839 described in Subsections (1)(a)(i) through (ii) or a substantially equivalent offense;

2840 (b) a sex offender if the individual:

2841 (i) has committed, attempted, solicited, or conspired to commit an offense described
2842 in Subsections (1)(a)(iii) through (xxxii); or

2843 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
2844 described in Subsections (1)(a)(iii) through (xxxii) or a substantially equivalent offense; or

2845 (c) a kidnap offender if the individual:

2846 (i) has committed, attempted, solicited, or conspired to commit an offense described
2847 in Subsections (1)(a)(xxxiii) through (xli); or

2848 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
2849 described in Subsections (1)(a)(xxxiii) through (xli) or a substantially equivalent offense.

2850 (3) An individual who has committed a registrable offense described in Subsection
2851 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense
2852 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child abuse
2853 registry, or an equivalent registry, in the individual's state of residence is a child abuse
2854 offender, sex offender, or kidnap offender based on the individual's status on the registry in the
2855 individual's state of residence.

2856 (4) Notwithstanding Subsection 53-29-101(2)(a), a plea of guilty or nolo contendere to a
2857 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a, Pleas
2858 in Abeyance, is the equivalent of a conviction even if the charge is subsequently reduced or
2859 dismissed in accordance with the plea in abeyance agreement.";

2860 (2) Subsection 53-29-203(1)(a), enacted in S.B. 41, be amended to read:

2861 "(a) 10 years after the day on which the offender's sentence for the offense has been
2862 terminated if the registrable offense is for:

2863 (i) a felony or class A misdemeanor violation of enticing a minor under Section
2864 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the
2865 offenses described in Subsections (1)(a)(ii) through (xxiv):

2866 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

2867 (iii) child torture under Section 76-5-109.4;

2868 (iv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
2869 natural parent of the child victim;

2870 (v) human trafficking for labor under Section 76-5-308, if the offender was not the
2871 natural parent of the child victim;

2872 (vi) human smuggling under Section 76-5-308.3, if the offender was not the natural
2873 parent of the child victim;

2874 (vii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the
2875 offender was not the natural parent of the child victim;

2876 (viii) aggravated human trafficking for labor under Section 76-5-310, if the offender
2877 was not the natural parent of the child victim;

2878 (ix) aggravated human smuggling under Section 76-5-310.1;

2879 (x) human trafficking of a vulnerable adult for labor under Section 76-5-311;

2880 (xi) a felony violation of unlawful sexual activity with a minor under Section
2881 76-5-401;

2882 (xii) sexual abuse of a minor under Section 76-5-401.1;

2883 (xiii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

2884 (xiv) forcible sexual abuse under Section 76-5-404;
2885 (xv) custodial sexual relations under Section 76-5-412;
2886 (xvi) sexual exploitation of a vulnerable adult under Section 76-5b-202;
2887 (xvii) sexual extortion under Subsection 76-5b-204(2)(a);
2888 (xviii) incest under Section 76-7-102;
2889 (xix) four to seven convictions of lewdness under Section 76-9-702;
2890 (xx) four to seven convictions of sexual battery under Section 76-9-702.1;
2891 (xxi) any combination of convictions of lewdness under Section 76-9-702, and of
2892 sexual battery under Section 76-9-702.1, that total four to seven convictions;
2893 (xxii) lewdness involving a child under Section 76-9-702.5;
2894 (xxiii) a felony or class A misdemeanor violation of voyeurism under Section
2895 76-9-702.7;
2896 (xxiv) aggravated exploitation of prostitution under Section 76-10-1306, committed
2897 on or before May 9, 2011;
2898 (xxv) attempting, soliciting, or conspiring to commit an offense listed in Subsections
2899 (1)(a)(i) through (xxiv) if the attempt, solicitation, or conspiracy is a registrable offense; or
2900 (xxvi) attempting, soliciting, or conspiring to commit:
2901 (A) aggravated kidnapping under Section 76-5-302, if the offender was not the
2902 natural parent of the child victim;
2903 (B) human trafficking for sexual exploitation under Section 76-5-308.1, if the
2904 offender was not the natural parent of the child victim;
2905 (C) human trafficking of a child for sexual exploitation under Subsection
2906 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
2907 (D) aggravated human trafficking for sexual exploitation under Section 76-5-310,
2908 if the offender was not the natural parent of the child victim;
2909 (E) human trafficking of a vulnerable adult for sexual exploitation under Section
2910 76-5-311, if the offender was not the natural parent of the child victim;
2911 (F) forcible sodomy under Section 76-5-403;
2912 (G) sexual abuse of a child under Section 76-5-404.1;
2913 (H) sexual exploitation of a minor under Section 76-5b-201;
2914 (I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
2915 (J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
2916 (K) aggravated exploitation of prostitution under Section 76-10-1306, on or after
2917 May 10, 2011; or"; and

2918 (3) the following language be inserted as Subsection 53-29-205(3)(c) in S.B. 41 and the
2919 existing subsections in Subsection 53-29-205(3) in S.B. 41 be renumbered accordingly:
2920 "(c) child torture under Section 76-5-109.4;".

2921 **Section 26. Coordinating S.B. 24 with H.B. 21 and S.B. 41, if all pass and become law.**

2922 If S.B. 24, Child Abuse and Torture Amendments, S.B. 41, Sex, Kidnap, and Child
2923 Abuse Offender Registry Amendments, and H.B. 21, Criminal Code Recodification and Cross
2924 References, all pass and become law, the Legislature intends that, on May 7, 2025:

2925 (1) Section 53-29-202, enacted in S.B. 41, be amended to read:

2926 "(1) An individual is an offender described in Subsection (2) and subject to the
2927 requirements, restrictions, and penalties described in this chapter if the individual:

2928 (a) has been convicted in this state of:

2929 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

2930 (ii) child torture under Section 76-5-109.4;

2931 (iii) a felony or class A misdemeanor violation of enticing a minor under Section
2932 76-4-401;

2933 (iv) sexual exploitation of a vulnerable adult under Section 76-5b-202;

2934 (v) human trafficking for sexual exploitation under Section 76-5-308.1;

2935 (vi) human trafficking of a child for sexual exploitation under Subsection
2936 76-5-308.5(4)(b);

2937 (vii) aggravated human trafficking for sexual exploitation under Section 76-5-310;

2938 (viii) human trafficking of a vulnerable adult for sexual exploitation under Section
2939 76-5-311;

2940 (ix) unlawful sexual activity with a minor under Section 76-5-401, except as provided
2941 in Subsection 76-5-401(3)(b) or (c);

2942 (x) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense
2943 unless the individual was younger than 21 years old at the time of the offense then on the
2944 individual's second offense;

2945 (xi) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

2946 (xii) rape under Section 76-5-402;

2947 (xiii) rape of a child under Section 76-5-402.1;

2948 (xiv) object rape under Section 76-5-402.2;

2949 (xv) object rape of a child under Section 76-5-402.3;

2950 (xvi) a felony violation of forcible sodomy under Section 76-5-403;

2951 (xvii) sodomy on a child under Section 76-5-403.1;

2952 (xviii) forcible sexual abuse under Section 76-5-404;
2953 (xix) sexual abuse of a child under Section 76-5-404.1;
2954 (xx) aggravated sexual abuse of a child under Section 76-5-404.3;
2955 (xxi) aggravated sexual assault under Section 76-5-405;
2956 (xxii) custodial sexual relations under Section 76-5-412, if the victim in custody is
2957 younger than 18 years old and the offense is committed on or after May 10, 2011;
2958 (xxiii) sexual exploitation of a minor under Section 76-5b-201;
2959 (xxiv) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
2960 (xxv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
2961 (xxvi) incest under Section 76-7-102;
2962 (xxvii) lewdness under Section 76-9-702, if the individual has been convicted of the
2963 offense four or more times;
2964 (xxviii) sexual battery under Section 76-9-702.1, if the individual has been convicted
2965 of the offense four or more times;
2966 (xxix) any combination of convictions of lewdness under Section 76-9-702, and of
2967 sexual battery under Section 76-9-702.1, that total four or more convictions;
2968 (xxx) lewdness involving a child under Section 76-9-702.5;
2969 (xxxi) a felony or class A misdemeanor violation of:
2970 (A) voyeurism under Section 76-12-306;
2971 (B) recorded or photographed voyeurism under Section 76-12-307; or
2972 (C) distribution of images obtained through voyeurism under Section 76-12-308;
2973 (xxxii) aggravated exploitation of prostitution under Section 76-10-1306;
2974 (xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not
2975 the natural parent of the child victim;
2976 (xxxiv) child kidnapping under Section 76-5-301.1, if the offender was not the
2977 natural parent of the child victim;
2978 (xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the
2979 natural parent of the child victim;
2980 (xxxvi) human trafficking for labor under Section 76-5-308, if the offender was not
2981 the natural parent of the child victim;
2982 (xxxvii) human smuggling under Section 76-5-308.3, if the offender was not the
2983 natural parent of the child victim;
2984 (xxxviii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if
2985 the offender was not the natural parent of the child victim;

(xxxix) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(xl) aggravated human smuggling under Section 76-5-310.1, if the offender was not the natural parent of the child victim;

(xli) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the offender was not the natural parent of the child victim; or

(xlii) attempting, soliciting, or conspiring to commit a felony violation of an offense listed in Subsections (1)(a)(i) through (xli);

(b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or conspiracy to commit a criminal offense in an external jurisdiction that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii)(A) is a Utah resident; or

(B) is not a Utah resident and is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(c)(i)(A) is required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

(B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(d)(i)(A) is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially equivalent offense in an external jurisdiction; or

(B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) is found not guilty by reason of insanity in this state or in an external jurisdiction of an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection

3020 (1)(a); and

3021 (ii) has been committed to the division for secure care, as defined in Section 80-1-102,
3022 for that offense if:

3023 (A) the individual remains in the division's custody until 30 days before the
3024 individual's 21st birthday;

3025 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
3026 under Section 80-6-605 and the individual remains in the division's custody until 30 days
3027 before the individual's 25th birthday; or

3028 (C) the individual is moved from the division's custody to the custody of the
3029 department before expiration of the division's jurisdiction over the individual.

3030 (2) Subject to Subsection (3), an individual is:

3031 (a) a child abuse offender if the individual:

3032 (i) has committed, attempted, solicited, or conspired to commit an offense described
3033 in Subsections (1)(a)(i) through (ii); or

3034 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
3035 described in Subsections (1)(a)(i) through (ii) or a substantially equivalent offense;

3036 (b) a sex offender if the individual:

3037 (i) has committed, attempted, solicited, or conspired to commit an offense described
3038 in Subsections (1)(a)(iii) through (xxxii); or

3039 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
3040 described in Subsections (1)(a)(iii) through (xxxii) or a substantially equivalent offense; or

3041 (c) a kidnap offender if the individual:

3042 (i) has committed, attempted, solicited, or conspired to commit an offense described
3043 in Subsections (1)(a)(xxxiii) through (xli); or

3044 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
3045 described in Subsections (1)(a)(xxxiii) through (xli) or a substantially equivalent offense.

3046 (3) An individual who has committed a registrable offense described in Subsection
3047 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense
3048 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child abuse
3049 registry, or an equivalent registry, in the individual's state of residence is a child abuse
3050 offender, sex offender, or kidnap offender based on the individual's status on the registry in the
3051 individual's state of residence.

3052 (4) Notwithstanding Subsection 53-29-101(2)(a), a plea of guilty or nolo contendere to a
3053 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a, Pleas

3054 in Abeyance, is the equivalent of a conviction even if the charge is subsequently reduced or
3055 dismissed in accordance with the plea in abeyance agreement.";

3056 (2) Subsection 53-29-203(1)(a), enacted in S.B. 41, be amended to read:

3057 "(a) 10 years after the day on which the offender's sentence for the offense has been
3058 terminated if the registrable offense is for:

3059 (i) a felony or class A misdemeanor violation of enticing a minor under Section
3060 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the
3061 offenses described in Subsections (1)(a)(ii) through (xxiv);

3062 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

3063 (iii) child torture under Section 76-5-109.4;

3064 (iv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
3065 natural parent of the child victim;

3066 (v) human trafficking for labor under Section 76-5-308, if the offender was not the
3067 natural parent of the child victim;

3068 (vi) human smuggling under Section 76-5-308.3, if the offender was not the natural
3069 parent of the child victim;

3070 (vii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the
3071 offender was not the natural parent of the child victim;

3072 (viii) aggravated human trafficking for labor under Section 76-5-310, if the offender
3073 was not the natural parent of the child victim;

3074 (ix) aggravated human smuggling under Section 76-5-310.1;

3075 (x) human trafficking of a vulnerable adult for labor under Section 76-5-311;

3076 (xi) a felony violation of unlawful sexual activity with a minor under Section
3077 76-5-401;

3078 (xii) sexual abuse of a minor under Section 76-5-401.1;

3079 (xiii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

3080 (xiv) forcible sexual abuse under Section 76-5-404;

3081 (xv) custodial sexual relations under Section 76-5-412;

3082 (xvi) sexual exploitation of a vulnerable adult under Section 76-5b-202;

3083 (xvii) sexual extortion under Subsection 76-5b-204(2)(a);

3084 (xviii) incest under Section 76-7-102;

3085 (xix) four to seven convictions of lewdness under Section 76-9-702;

3086 (xx) four to seven convictions of sexual battery under Section 76-9-702.1;

3087 (xxi) any combination of convictions of lewdness under Section 76-9-702, and of

sexual battery under Section 76-9-702.1, that total four to seven convictions;
(xxii) lewdness involving a child under Section 76-9-702.5;
(xxiii) a felony or class A misdemeanor violation of:
(A) voyeurism under Section 76-12-306;
(B) recorded or photographed voyeurism under Section 76-12-307; or
(C) distribution of images obtained through voyeurism under Section 76-12-308;
(xxiv) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;
(xxv) attempting, soliciting, or conspiring to commit an offense listed in Subsections (1)(a)(i) through (xxiv) if the attempt, solicitation, or conspiracy is a registrable offense; or
(xxvi) attempting, soliciting, or conspiring to commit:
(A) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;
(B) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;
(C) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
(D) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;
(E) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;
(F) forcible sodomy under Section 76-5-403;
(G) sexual abuse of a child under Section 76-5-404.1;
(H) sexual exploitation of a minor under Section 76-5b-201;
(I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
(J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
(K) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or";
(3) the following language be inserted as Subsection 53-29-205(3)(c) in S.B. 41 and the existing subsections in Subsection 53-29-205(3) in S.B. 41 be renumbered accordingly: "(c) child torture under Section 76-5-109.4;" and
(4) Subsection 53-29-205(3)(u), enacted in S.B. 41, be amended to read:
(u) a felony violation of:
(i) recorded or photographed voyeurism under Section 76-12-307; or

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(ii) distribution of images obtained through voyeurism under Section 76-12-308;".