

HB0022S01 compared with HB0022

~~deleted text~~ shows text that was in HB0022 but was deleted in HB0022S01

inserted text shows text that was not in HB0022 but was inserted into HB0022S01

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Prostitution Offense Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Keith Grover

LONG TITLE

Committee Note:

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 9 voting for 0 voting against 9 absent

General Description:

This bill reorganizes and amends provisions concerning prostitution and related offenses.

Highlighted Provisions:

This bill:

- ▶ adds and modifies definitions;
- ▶ reorganizes provisions concerning prostitution and related offenses;
- ▶ for clarity, revises names of certain prostitution-related offenses;
- ▶ for clarity, provides that a child may not be prosecuted for engaging in sexual solicitation or prostitution;
- ▶ separates existing prostitution-related offenses into separate offenses based on the ages of the individuals involved;
- ▶

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provides new penalties for child offenders of certain prostitution-related offenses that are based on the age of the child offender;

20 ▸ for clarity, revises offense of engaging in prostitution or sexual solicitation as an HIV positive offender; and

22 ▸ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 None

28 **AMENDS:**

29 **10-8-41.5 (Effective 05/07/25)**, as last amended by Laws of Utah 2019, Chapter 303 (**Effective 05/07/25**), as last amended by Laws of Utah 2019, Chapter 303

30 **26B-2-120 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 234 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 234

31 **26B-7-205 (Effective 05/07/25)**, as renumbered and amended by Laws of Utah 2023, Chapter 308 (**Effective 05/07/25**), as renumbered and amended by Laws of Utah 2023, Chapter 308

33 **76-1-301 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 96 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 96

34 **76-2-304.5 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 140 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 140

35 **76-3-203.1 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 96 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 96

36 **76-3-203.5 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapters 96, 179 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapters 96, 179

38 **76-10-1602 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 96 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 96

39 **77-23a-8 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapters 96, 301 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapters 96, 301

40 **77-38-3 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 240 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 240

41 **77-41-102 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 234 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapter 234

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- 42 **77-41-106 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 234 (**Effective**
43 **05/07/25**), as last amended by Laws of Utah 2024, Chapter 234
- 44 **78B-6-1101 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 207 (**Effective**
45 **05/07/25**), as last amended by Laws of Utah 2021, Chapter 207
- 46 **78B-6-1107 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 207 (**Effective**
47 **05/07/25**), as last amended by Laws of Utah 2021, Chapter 207
- 48 **78B-9-104 (Effective 05/07/25)**, as last amended by Laws of Utah 2023, Chapters 111,
49 448 (**Effective 05/07/25**), as last amended by Laws of Utah 2023, Chapters 111, 448
- 50 **80-2-301 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapters 240,
51 307 (**Effective 05/07/25**), as last amended by Laws of Utah 2024, Chapters 240, 307
- 52 **80-6-1002 (Effective 05/07/25)**, as last amended by Laws of Utah 2023, Chapter 115 (**Effective**
53 **05/07/25**), as last amended by Laws of Utah 2023, Chapter 115
- 54 ENACTS:
- 55 **76-5d-201 (Effective 05/07/25)**, Utah Code Annotated 1953 (**Effective 05/07/25**), Utah Code
56 Annotated 1953
- 57 **76-5d-204 (Effective 05/07/25)**, Utah Code Annotated 1953 (**Effective 05/07/25**), Utah Code
58 Annotated 1953
- 59 **76-5d-205 (Effective 05/07/25)**, Utah Code Annotated 1953 (**Effective 05/07/25**), Utah Code
60 Annotated 1953
- 61 **76-5d-210 (Effective 05/07/25)**, Utah Code Annotated 1953 (**Effective 05/07/25**), Utah Code
Annotated 1953
- 62 **76-5d-211 (Effective 05/07/25)**, Utah Code Annotated 1953 (**Effective 05/07/25**), Utah Code
Annotated 1953
- 63 RENUMBERS AND AMENDS:
- 64 **76-5d-101 (Effective 05/07/25)**, (Renumbered from 76-10-1301, as last amended by Laws of Utah
65 2022, Chapter 124) (**Effective 05/07/25**), (Renumbered from 76-10-1301, as last amended by Laws
66 of Utah 2022, Chapter 124)
- 67 **76-5d-102 (Effective 05/07/25)**, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991,
68 Chapter 107) (**Effective 05/07/25**), (Renumbered from 76-10-1307, as enacted by Laws of Utah
69 1991, Chapter 107)
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- 76-5d-103 (Effective 05/07/25), (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023, Chapters 184, 330) (Effective 05/07/25), (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023, Chapters 184, 330)
- 63 76-5d-104 (Effective 05/07/25), (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023, Chapter 330) (Effective 05/07/25), (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023, Chapter 330)
- 65 76-5d-105 (Effective 05/07/25), (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993, Chapter 179) (Effective 05/07/25), (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993, Chapter 179)
- 67 76-5d-106 (Effective 05/07/25), (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022, Chapters 124, 181 and 335) (Effective 05/07/25), (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022, Chapters 124, 181 and 335)
- 69 76-5d-202 (Effective 05/07/25), (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023, Chapter 111) (Effective 05/07/25), (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023, Chapter 111)
- 71 76-5d-203 (Effective 05/07/25), (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024, Chapter 140) (Effective 05/07/25), (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024, Chapter 140)
- 73 76-5d-206 (Effective 05/07/25), (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018, Chapter 308) (Effective 05/07/25), (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018, Chapter 308)
- 75 76-5d-207 (Effective 05/07/25), (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018, Chapter 308) (Effective 05/07/25), (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018, Chapter 308)
- 77 76-5d-208 (Effective 05/07/25), (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022, Chapter 181) (Effective 05/07/25), (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022, Chapter 181)
- 79 76-5d-209 (Effective 05/07/25), (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022, Chapters 124, 181 and last amended by Coordination Clause, Laws of
- 81 Utah 2022, Chapter 124) (Effective 05/07/25), (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022, Chapters 124, 181 and last amended by Coordination Clause, Laws of

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81 Utah 2022, Chapter 124)
82 **76-5d-212 (Effective 05/07/25)**, (Renumbered from 76-10-1309, as last amended by Laws of Utah
2011, Chapter 70) (**Effective 05/07/25**), (Renumbered from 76-10-1309, as last amended by Laws
of Utah 2011, Chapter 70)

84 REPEALS:

85 **76-10-1308 (Effective 05/07/25)**, as enacted by Laws of Utah 1991, Chapter 107 (**Effective**
05/07/25), as enacted by Laws of Utah 1991, Chapter 107

86 **76-10-1310 (Effective 05/07/25)**, as last amended by Laws of Utah 2011, Chapter 70 (**Effective**
05/07/25), as last amended by Laws of Utah 2011, Chapter 70

87

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

89 Section 1. Section **10-8-41.5** is amended to read:

90 **10-8-41.5. (Effective 05/07/25)Regulation of sexually oriented business.**

91 (1) As used in this section:

92 (a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing,
reading, talking, listening, or other performances or activities conducted by a nude or partially
denuded individual for compensation.

95 (b) "Compensation" means:

96 (i) a salary;

97 (ii) a fee;

98 (iii) a commission;

99 (iv) employment;

100 (v) a profit; or

101 (vi) other pecuniary gain.

102 (c)

. (i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or
accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

105 (A) to a social affair, entertainment, or a place of amusement; or

106 (B) within a place of public or private resort, a business or commercial establishment, or a private
quarter.

108 (ii) "Escort" does not mean a person who provides business or personal services, including:

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- 110 (A) a licensed private nurse;
- 111 (B) an aide for the elderly or a person with a disability;
- 112 (C) a social secretary or similar service personnel whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more and who provides a service not principally characterized as dating or socializing; or
- 116 (D) a person who provides services such as singing telegrams, birthday greetings, or similar activities that are characterized by an appearance in a public place, contracted for by a party other than the person for whom the service is being performed, and of a duration not to exceed one hour.
- 120 (d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.
- 122 (e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:
- 124 (i) genitals;
- 125 (ii) the pubic region; or
- 126 (iii) a female breast below a point immediately above the top of the areola.
- 127 (f)
- . (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.
- 131 (ii) "Sexually oriented business" includes:
- 132 (A) an escort service; or
- 133 (B) an adult service.
- 134 (2) A person employed in a sexually oriented business may not work in a municipality if:
- 135 (a) the municipality requires that a person employed in a sexually oriented business obtain an individual license; and
- 137 (b) the person has not obtained an individual license from the municipality.
- 138 (3) A business entity that conducts a sexually oriented business may not conduct business in a municipality if:
- 140 (a) the municipality requires that a sexually oriented business obtain a license; and
- 141 (b) the business entity has not obtained a license from the municipality.
- 142 (4)

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- . (a) A violation of this section by an individual who is at least 18 years old is a class A misdemeanor.
- 144 (b) A person charged under this section may not also be charged under Section
[76-10-1302] 76-5d-202, Engaging in prostitution.
- 146 Section 2. Section **26B-2-120** is amended to read:
- 147 **26B-2-120. (Effective 05/07/25)Background check -- Direct access to children or vulnerable
adults.**
- 149 (1) As used in this section:
- 150 (a)
- . (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the
department under this part and has direct access, including:
- 153 (A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in
accordance with Section 78B-6-128;
- 155 (B) a foster parent or prospective foster parent;
- 156 (C) an individual who provides respite care to a foster parent or an adoptive parent on more than
one occasion;
- 158 (D) an individual who transports a child for a youth transportation company;
- 159 (E) an individual who provides certified peer support, as defined in Section 26B-5-610;
- 161 (F) an individual who provides peer supports, has a disability or a family member with a disability,
or is in recovery from a mental illness or a substance use disorder;
- 164 (G) an individual who has lived experience with the services provided by the department, and
uses that lived experience to provide support, guidance, or services to promote resiliency and
recovery;
- 167 (H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter
60, Mental Health Professional Practice Act, and engaged in the practice of mental health
therapy, as defined in Section 58-60-102;
- 170 (I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old
or older and resides in a home, that is licensed or certified by the division;
- 173 (J) an individual who is 12 years old or older and is associated with a certification, contract, or
licensee with the department under this part and has or will likely have direct access;
- 176 (K) a foster home licensee that submits an application for an annual background screening as
required by Subsection 26B-2-105(4)(d)(iii); or

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- 178 (L) a short-term relief care provider.
- 179 (ii) "Applicant" does not include:
- 180 (A) an individual who is in the custody of the Division of Child and Family Services or the Division of
Juvenile Justice and Youth Services;
- 182 (B) an individual who applies for employment with, or is employed by, the Department of Health and
Human Services;
- 184 (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if
the parent provides direct care to and resides with the person, including if the parent provides direct
care to and resides with the person pursuant to a court order; or
- 188 (D) an individual or a department contractor who provides services in an adults only substance use
disorder program, as defined by rule adopted by the Department of Health and Human Services
in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a
program director or a member, as defined by Section 26B-2-105, of the program.
- 193 (b) "Application" means a background check application to the office.
- 194 (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety,
created in Section 53-10-201.
- 196 (d) "Criminal finding" means a record of:
- 197 (i) an arrest for a criminal offense;
- 198 (ii) a warrant for a criminal arrest;
- 199 (iii) charges for a criminal offense; or
- 200 (iv) a criminal conviction.
- 201 (e) "Direct access" means that an individual has, or likely will have:
- 202 (i) contact with or access to a child or vulnerable adult by which the individual will have the
opportunity for personal communication or touch with the child or vulnerable adult; or
- 205 (ii) an opportunity to view medical, financial, or other confidential personal identifying information of
the child, the child's parent or legal guardian, or the vulnerable adult.
- 208 (f)
- . (i) "Direct access qualified" means that the applicant has an eligible determination by the office within
the license and renewal time period; and
- 210 (ii) no more than 180 days have passed since the date on which the applicant's association with a
certification, contract, or licensee with the department expires.

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- 212 (g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight,
for a foster child.
- 214 (h) "Licensee" means an individual or a human services program licensed by the division.
- 216 (i) "Non-criminal finding" means a record maintained in:
- 217 (i) the Division of Child and Family Services' Management Information System described in Section
80-2-1001;
- 219 (ii) the Division of Child and Family Services' Licensing Information System described in Section
80-2-1002;
- 221 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database
described in Section 26B-6-210;
- 223 (iv) juvenile court arrest, adjudication, and disposition records;
- 224 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap,
and Child Abuse Offender Registry, or a national sex offender registry; or
- 227 (vi) a state child abuse or neglect registry.
- 228 (j) "Office" means the Office of Background Processing within the department.
- 229 (k) "Personal identifying information" means:
- 230 (i) current name, former names, nicknames, and aliases;
- 231 (ii) date of birth;
- 232 (iii) physical address and email address;
- 233 (iv) telephone number;
- 234 (v) driver license or other government-issued identification;
- 235 (vi) social security number;
- 236 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office;
and
- 238 (viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act.
- 240 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to
the office:
- 242 (a) personal identifying information;
- 243 (b) a fee established by the office under Section 63J-1-504;
- 244 (c) a disclosure form, specified by the office, for consent for:

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- 245 (i) an initial background check upon association with a certification, contract, or licensee with the
department;
- 247 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification,
contract, or licensee with the department for 180 days;
- 249 (iii) a background check when the office determines that reasonable cause exists; and
- 250 (iv) retention of personal identifying information, including fingerprints, for monitoring and notification
as described in Subsections (3)(c) and (4);
- 252 (d) if an applicant resided outside of the United States and its territories during the five years
immediately preceding the day on which the information described in Subsections (2)(a) through
(c) is submitted to the office, documentation establishing whether the applicant was convicted of a
crime during the time that the applicant resided outside of the United States or its territories; and
- 257 (e) an application showing an applicant's association with a certification, contract, or a licensee with
the department, for the purpose of the office tracking the direct access qualified status of the
applicant, which expires 180 days after the date on which the applicant is no longer associated with
a certification, contract, or a licensee with the department.
- 262 (3) The office:
- 263 (a) shall perform the following duties as part of a background check of an applicant before the office
grants or denies direct access qualified status to an applicant:
- 265 (i) check state and regional criminal background databases for the applicant's criminal history by:
- 267 (A) submitting personal identifying information to the bureau for a search; or
- 268 (B) using the applicant's personal identifying information to search state and regional criminal
background databases as authorized under Section 53-10-108;
- 270 (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal
history search of applicable national criminal background databases;
- 273 (iii) search the Division of Child and Family Services' Licensing Information System described in
Section 80-2-1002;
- 275 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex,
Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18
years old or older;
- 278

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- (v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;
- 281 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- 283 (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and
- 285 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;
- 287 (b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 290 (i) for an annual renewal; or
- 291 (ii) when the office determines that reasonable cause exists;
- 292 (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;
- 296 (d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;
- 300 (e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;
- 303 (f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);
- 307 (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:
- 310 (i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

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- (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and
- 315 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
implement the provisions of this Subsection (3) relating to background checks.
- 318 (4)
- . (a) With the personal identifying information the office submits to the bureau under Subsection (3),
the bureau shall check against state and regional criminal background databases for the applicant's
criminal history.
- 321 (b) With the personal identifying information and fingerprints the office submits to the bureau under
Subsection (3), the bureau shall check against national criminal background databases for the
applicant's criminal history.
- 324 (c) Upon direction from the office, and with the personal identifying information and fingerprints the
office submits to the bureau under Subsection (3)(c), the bureau shall:
- 326 (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional
criminal records databases, including latent prints; and
- 328 (ii) monitor state and regional criminal background databases and identify criminal activity associated
with the applicant.
- 330 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next
Generation Identification System, to be retained in the Federal Bureau of Investigation Next
Generation Identification System for the purpose of:
- 333 (i) being searched by future submissions to the national criminal records databases, including the
Federal Bureau of Investigation Next Generation Identification System and latent prints; and
- 336 (ii) monitoring national criminal background databases and identifying criminal activity associated with
the applicant.
- 338 (e) The [~~Bureau~~] bureau shall notify and release to the office all information of criminal activity
associated with the applicant.
- 340 (f) Upon notice that an individual who has direct access qualified status will no longer be associated
with a certification, contract, or licensee with the department, the bureau shall:
- 343 (i) discard and destroy any retained fingerprints; and
- 344

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(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

348 (5)

(a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

351 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

352 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

354 (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

356 (C) sexual solicitation or prostitution;

357 (D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

359 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

360 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

361 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

362 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

363 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

364 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

366 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

368 (L) aggravated arson, as described in Section 76-6-103;

369 (M) aggravated burglary, as described in Section 76-6-203;

370 (N) aggravated exploitation of prostitution, as described in Section ~~[76-10-1306]~~ 76-5d-208;

372 (O) aggravated robbery, as described in Section 76-6-302;

373 (P) endangering persons in a human services program, as described in Section 26B-2-113;

375 (Q) failure to report, as described in Section 80-2-609;

376 (R) identity fraud crime, as described in Section 76-6-1102;

377 (S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

379 (T) riot, as described in Section 76-9-101;

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- 380 (U) sexual battery, as described in Section 76-9-702.1; or
- 381 (V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section
76-10-506; or
- 383 (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state,
would constitute a violation of an offense described in Subsection (5)(a)(i).
- 386 (b)
- . (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider
or a mental health professional, if the applicant provides services in a program that serves only
adults with a primary mental health diagnosis, with or without a co-occurring substance use
disorder.
- 390 (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in
accordance with Subsection (7).
- 392 (c) The office shall deny direct access qualified status to an applicant if the office finds that a court
order prohibits the applicant from having direct access to a child or vulnerable adult.
- 395 (6) The office shall conduct a comprehensive review of an applicant's background check if the
applicant:
- 397 (a) has a felony or class A misdemeanor conviction that is more than three years from the date on which
the office conducts the background check, for an offense described in Subsection (5)(a);
- 400 (b) has a felony charge or conviction that is no more than 10 years from the date on which the office
conducts the background check for an offense not described in Subsection (5)(a);
- 403 (c) has a felony charge or conviction that is more than 10 years from the date on which the office
conducts the background check, for an offense not described in Subsection (5)(a), with criminal or
non-criminal findings after the date of the felony charge or conviction;
- 407 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no
more than 10 years from the date on which the office conducts the background check for an offense
described in Subsection (5)(a);
- 410 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the
date on which the office conducts the background check, for an offense described in Subsection (5)
(a), with criminal or non-criminal findings after the date of conviction;
- 414 (f) has a misdemeanor charge or conviction that is no more than three years from the date on which the
office conducts the background check for an offense not described in Subsection (5)(a);

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- 417 (g) has a misdemeanor charge or conviction that is more than three years from the date on which the
office conducts the background check, for an offense not described in Subsection (5)(a), with
criminal or non-criminal findings after the date of charge or conviction;
- 421 (h) is currently subject to a plea in abeyance or diversion agreement for an offense described in
Subsection (5)(a);
- 423 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41,
Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
- 426 (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a
felony or misdemeanor, if the applicant is:
- 428 (i) under 28 years old; or
- 429 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject
to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in
Subsection (5)(a);
- 432 (k) has a pending charge for an offense described in Subsection (5)(a);
- 433 (l) has a listing that occurred no more than 15 years from the date on which the office conducts the
background check in the Division of Child and Family Services' Licensing Information System
described in Section ;
- 436 (m) has a listing that occurred more than 15 years from the date on which the office conducts the
background check in the Division of Child and Family Services' Licensing Information System
described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;
- 440 (n) has a listing that occurred no more than 15 years from the date on which the office conducts the
background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
exploitation database described in Section 26B-6-210;
- 444 (o) has a listing that occurred more than 15 years from the date on which the office conducts the
background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after
the date of the listing;
- 448 (p) has a substantiated finding that occurred no more than 15 years from the date on which the
office conducts the background check of severe child abuse or neglect under Section 80-3-404 or
80-3-504[-]; or

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(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

455 (7)

. (a) The comprehensive review shall include an examination of:

456 (i) the date of the offense or incident;

457 (ii) the nature and seriousness of the offense or incident;

458 (iii) the circumstances under which the offense or incident occurred;

459 (iv) the age of the perpetrator when the offense or incident occurred;

460 (v) whether the offense or incident was an isolated or repeated incident;

461 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult,
including:

463 (A) actual or threatened, nonaccidental physical, mental, or financial harm;

464 (B) sexual abuse;

465 (C) sexual exploitation; or

466 (D) negligent treatment;

467 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment
received, or additional academic or vocational schooling completed;

469 (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the
applicant is applying; and

471 (ix) if the background check of an applicant is being conducted for the purpose of giving direct
access qualified status to an applicant seeking a position in a congregate care program or to
become a prospective foster or adoptive parent, any listing in the Division of Child and Family
Services' Management Information System described in Section 80-2-1001.

476 (b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status
to an applicant if the office finds the approval would likely create a risk of harm to a child or
vulnerable adult.

479 (8) The office shall grant direct access qualified status to an applicant who is not denied under this
section.

481 (9)

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- (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:
- 484 (i) is awaiting the results of the criminal history search of national criminal background databases;
and
- 486 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 488 (b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:
- 491 (i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents;
and
- 493 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 495 (c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.
- 498 (10)
- . (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.
- 501 (b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:
- 503 (i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;
- 505 (ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 507 (iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or
- 509 (iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.
- 512 (c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants

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direct access qualified status to the applicant through a subsequent application in accordance with this section.

- 516 (11) If the office denies direct access qualified status to an applicant, the applicant may request a
hearing in the department's Office of Administrative Hearings to challenge the office's decision.
- 519 (12)
- . (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee
serving adults only.
- 521 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with
this section.
- 523 (c) The office shall conduct a comprehensive review for an applicant if:
- 524 (i) the applicant is seeking a position:
- 525 (A) as a peer support provider;
- 526 (B) as a mental health professional; or
- 527 (C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-
occurring substance use disorder; and
- 529 (ii) within three years from the date on which the office conducts the background check, the applicant
has a felony or misdemeanor charge or conviction or a non-criminal finding.
- 532 (13)
- . (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program,
an applicant seeking to provide a prospective foster home, an applicant seeking to provide
a prospective adoptive home, and each adult living in the home of the prospective foster or
prospective adoptive home.
- 536 (b) As federally required, the office shall:
- 537 (i) check the child abuse and neglect registry in each state where each applicant resided in the five years
immediately preceding the day on which the applicant applied to be a foster or adoptive parent,
to determine whether the prospective foster or adoptive parent is listed in the registry as having a
substantiated or supported finding of child abuse or neglect; and
- 542 (ii) except for applicants seeking a position in a congregate care program, check the child abuse and
neglect registry in each state where each adult living in the home of the prospective foster or
adoptive home resided in the five years immediately preceding the day on which the applicant

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applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

- 548 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 549 (i) federal law or rule permits otherwise; or
- 550 (ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:
- 552 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 553 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).
- 556 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:
- 558 (i) a felony involving conduct that constitutes any of the following:
- 559 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 560 (B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;
- 562 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 563 (D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;
- 565 (E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;
- 567 (F) aggravated murder, as described in Section 76-5-202;
- 568 (G) murder, as described in Section 76-5-203;
- 569 (H) manslaughter, as described in Section 76-5-205;
- 570 (I) child abuse homicide, as described in Section 76-5-208;
- 571 (J) homicide by assault, as described in Section 76-5-209;
- 572 (K) kidnapping, as described in Section 76-5-301;
- 573 (L) child kidnapping, as described in Section 76-5-301.1;
- 574 (M) aggravated kidnapping, as described in Section 76-5-302;
- 575 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 576 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 577 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;
- 579 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 580 (R) aggravated arson, as described in Section 76-6-103;
- 581 (S) aggravated burglary, as described in Section 76-6-203;

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- 582 (T) aggravated robbery, as described in Section 76-6-302;
- 583 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 584 (V) incest, as described in Section 76-7-102; or
- 585 (W) domestic violence, as described in Section 77-36-1; or
- 586 (ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).
- 588 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:
- 592 (i) aggravated assault, as described in Section 76-5-103;
- 593 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 594 (iii) mayhem, as described in Section 76-5-105;
- 595 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 596 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 597 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 599 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 601 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 602 (f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:
- 605 (i) has an offense described in Subsection (5)(a);
- 606 (ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;
- 608 (iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- 610 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;
- 612 (v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- 614 (vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

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

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

625 Section 3. Section **26B-7-205** is amended to read:

626 **26B-7-205. (Effective 05/07/25)Willful introduction of communicable disease a misdemeanor.**

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section [~~76-10-1309~~] 76-5d-212.

631 Section 4. Section **76-1-301** is amended to read:

632 **76-1-301. (Effective 05/07/25)Offenses for which prosecution may be commenced at any time.**

634 (1) As used in this section:

- 635 (a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).
- 638 (b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.
- 642 (2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

- 644 (a) an offense classified as a capital felony under Section 76-3-103;
- 645 (b) aggravated murder under Section 76-5-202;
- 646 (c) murder under Section 76-5-203;
- 647 (d) manslaughter under Section 76-5-205;
- 648 (e) child abuse homicide under Section 76-5-208;
- 649 (f) aggravated kidnapping under Section 76-5-302;
- 650 (g) child kidnapping under Section 76-5-301.1;

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- 651 (h) rape under Section 76-5-402;
- 652 (i) rape of a child under Section 76-5-402.1;
- 653 (j) object rape under Section 76-5-402.2;
- 654 (k) object rape of a child under Section 76-5-402.3;
- 655 (l) forcible sodomy under Section 76-5-403;
- 656 (m) sodomy on a child under Section 76-5-403.1;
- 657 (n) sexual abuse of a child under Section 76-5-404.1;
- 658 (o) aggravated sexual abuse of a child under Section 76-5-404.3;
- 659 (p) aggravated sexual assault under Section 76-5-405;
- 660 (q) any predicate offense to a murder or aggravating offense to an aggravated murder;
- 661 (r) aggravated human trafficking under Section 76-5-310;
- 662 (s) aggravated human smuggling under Section 76-5-310.1;
- 663 (t) aggravated exploitation of prostitution involving a child under Section ~~[76-10-1306]~~ 76-5d-208; or
- 665 (u) human trafficking of a child under Section 76-5-308.5.

666 Section 5. Section **76-2-304.5** is amended to read:

667 **76-2-304.5. (Effective 05/07/25) Mistake as to victim's age not a defense.**

- 668 (1) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age:
 - 671 (a) child kidnapping, Section 76-5-301.1;
 - 672 (b) rape of a child, Section 76-5-402.1;
 - 673 (c) object rape of a child, Section 76-5-402.3;
 - 674 (d) sodomy on a child, Section 76-5-403.1;
 - 675 (e) sexual abuse of a child, Section 76-5-404.1;
 - 676 (f) aggravated sexual abuse of a child, Section 76-5-404.3;
 - 677 (g) unlawful kissing of a child, Section 76-5-416.2; or
 - 678 (h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).
- 679 (2) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age:
 - 682 (a) unlawful sexual activity with a minor, Section 76-5-401;
 - 683 (b) sexual abuse of a minor, Section 76-5-401.1; or
 - 684 (c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

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- 685 (3) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 18
years old or older at the time of the alleged offense or was unaware of the victim's true age:
- 688 (a) human trafficking of a child, Section 76-5-308.5;
- 689 (b) aggravated human trafficking, Section 76-5-310;
- 690 (c) aggravated human smuggling, Section 76-5-310.1;
- 691 (d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);
- 692 (e) patronizing [~~a prostitute, Section 76-10-1303~~] a prostituted individual who is a child, Section
76-5d-204;
- 694 (f) aggravated exploitation of prostitution, Section [~~76-10-1306~~] 76-5d-208; or
- 695 (g) sexual solicitation[~~, Section 76-10-1313~~] by an actor offering compensation to a child in exchange
for sexual activity, Section 76-5d-211.
- 697 Section 6. Section **76-3-203.1** is amended to read:
- 698 **76-3-203.1. (Effective 05/07/25)Offenses committed in concert with three or more persons
or in relation to a criminal street gang -- Notice -- Enhanced penalties.**
- 700 (1) As used in this section:
- 701 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.
- 702 (b) "In concert with three or more persons" means:
- 703 (i) the defendant was aided or encouraged by at least three other persons in committing the offense and
was aware of this aid or encouragement; and
- 705 (ii) each of the other persons:
- 706 (A) was physically present; and
- 707 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).
- 708 (c) "In concert with three or more persons" means, regarding intent:
- 709 (i) other persons participating as parties need not have the intent to engage in the same offense or
degree of offense as the defendant; and
- 711 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an
adult.
- 713 (2) A person who commits any offense in accordance with this section is subject to an enhanced penalty
as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the
person acted:
- 716 (a) in concert with three or more persons;

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- 717 (b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in
Section 76-9-802; or
- 719 (c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as
defined in Section 76-9-802.
- 721 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed
upon the information or indictment notice that the defendant is subject to the enhanced penalties
provided under this section.
- 724 (4)
- . (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:
- 725 (i) for a class B misdemeanor, as a class A misdemeanor; and
- 726 (ii) for a class A misdemeanor, as a third degree felony.
- 727 (b) The following offenses are subject to Subsection (4)(a):
- 728 (i) criminal mischief as described in Section 76-6-106;
- 729 (ii) property damage or destruction as described in Section 76-6-106.1; and
- 730 (iii) defacement by graffiti as described in Section 76-6-107.
- 731 (5)
- . (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:
- 732 (i) for a class B misdemeanor, as a class A misdemeanor;
- 733 (ii) for a class A misdemeanor, as a third degree felony; and
- 734 (iii) for a third degree felony, as a second degree felony.
- 735 (b) The following offenses are subject to Subsection (5)(a):
- 736 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);
- 737 (ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing
Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 740 (iii) tampering with a witness under Section 76-8-508;
- 741 (iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;
- 743 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 744 (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;
- 746 (vii) any weapons offense under Chapter 10, Part 5, Weapons; and
- 747 (viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.
- 748 (6)

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- . (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:
- 749 (i) for a class B misdemeanor, as a class A misdemeanor;
- 750 (ii) for a class A misdemeanor, as a third degree felony;
- 751 (iii) for a third degree felony, as a second degree felony; and
- 752 (iv) for a second degree felony, as a first degree felony.
- 753 (b) The following offenses are subject to Subsection (6)(a):
- 754 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 755 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 756 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 758 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 759 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 760 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 761 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 762 (viii) aggravated exploitation of prostitution under Section ~~[76-10-1306]~~ 76-5d-208.
- 763 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.
- 765 (8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.
- 769 Section 7. Section **76-3-203.5** is amended to read:
- 770 **76-3-203.5. (Effective 05/07/25) Habitual violent offender -- Definition -- Procedure -- Penalty.**
- 772 (1) As used in this section:
- 773 (a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.
- 777 (b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.
- 782 (c) "Violent felony" means:

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- 783 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the
following offenses punishable as a felony:
- 785 (A) arson as described in Section 76-6-102;
- 786 (B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);
- 787 (C) criminal mischief as described in Section 76-6-106;
- 788 (D) aggravated arson as described in Section 76-6-103;
- 789 (E) assault by prisoner as described in Section 76-5-102.5;
- 790 (F) disarming a police officer as described in Section 76-5-102.8;
- 791 (G) aggravated assault as described in Section 76-5-103;
- 792 (H) aggravated assault by prisoner as described in Section 76-5-103.5;
- 793 (I) mayhem as described in Section 76-5-105;
- 794 (J) stalking as described in Subsection 76-5-106.5(2);
- 795 (K) threat of terrorism as described in Section 76-5-107.3;
- 796 (L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);
- 797 (M) commission of domestic violence in the presence of a child as described in Section 76-5-114;
- 799 (N) abuse or neglect of a child with a disability as described in Section 76-5-110;
- 800 (O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2,
76-5-111.3, or 76-5-111.4;
- 802 (P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;
- 803 (Q) an offense described in Chapter 5, Part 2, Criminal Homicide;
- 804 (R) kidnapping as described in Section 76-5-301;
- 805 (S) child kidnapping as described in Section 76-5-301.1;
- 806 (T) aggravated kidnapping as described in Section 76-5-302;
- 807 (U) rape as described in Section 76-5-402;
- 808 (V) rape of a child as described in Section 76-5-402.1;
- 809 (W) object rape as described in Section 76-5-402.2;
- 810 (X) object rape of a child as described in Section 76-5-402.3;
- 811 (Y) forcible sodomy as described in Section 76-5-403;
- 812 (Z) sodomy on a child as described in Section 76-5-403.1;
- 813 (AA) forcible sexual abuse as described in Section 76-5-404;
- 814 (BB) sexual abuse of a child as described in Section 76-5-404.1;

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- 815 (CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 816 (DD) aggravated sexual assault as described in Section 76-5-405;
- 817 (EE) sexual exploitation of a minor as described in Section 76-5b-201;
- 818 (FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;
- 819 (GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;
- 820 (HH) burglary as described in Subsection 76-6-202(3)(b);
- 821 (II) aggravated burglary as described in Section 76-6-203;
- 822 (JJ) robbery as described in Section 76-6-301;
- 823 (KK) aggravated robbery as described in Section 76-6-302;
- 824 (LL) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);
- 825 (MM) tampering with a witness as described in Section 76-8-508;
- 826 (NN) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;
- 828 (OO) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);
- 830 (PP) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or
(ix);
- 832 (QQ) possession, use, or removal of explosive, chemical, or incendiary devices as described in
Subsections 76-10-306(3) through (6);
- 834 (RR) unlawful delivery of explosive, chemical, or incendiary devices as described in Section
76-10-307;
- 836 (SS) purchase or possession of a dangerous weapon or handgun by a restricted person as described in
Section 76-10-503;
- 838 (TT) aggravated exploitation of prostitution as described in Subsection [~~76-10-1306(1)~~
~~(a)~~] 76-5d-208(2)(a);
- 840 (UU) bus hijacking as described in Section 76-10-1504; and
- 841 (VV) discharging firearms and hurling missiles as described in Section 76-10-1505; or
- 843 (ii) any felony violation of a criminal statute of any other state, the United States, or any district,
possession, or territory of the United States which would constitute a violent felony as defined in
this Subsection (1) if committed in this state.
- 846 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact
determines beyond a reasonable doubt that the person is a habitual violent offender under this
section, the penalty for a:

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- 849 (a) third degree felony is as if the conviction were for a first degree felony;
- 850 (b) second degree felony is as if the conviction were for a first degree felony; or
- 851 (c) first degree felony remains the penalty for a first degree penalty except:
- 852 (i) the convicted person is not eligible for probation; and
- 853 (ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.
- 856 (3)
- . (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.
- 861 (b)
- . (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:
- 863 (A) the defendant is the person who was convicted or committed;
- 864 (B) the defendant was represented by counsel or had waived counsel; or
- 865 (C) the defendant's plea was understandingly or voluntarily entered.
- 866 (ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.
- 869 (4)
- . (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:
- 872 (i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or
- 874 (ii) allegation against the defendant of being a habitual violent offender.
- 875 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.
- 879 (c)
- . (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.
- 881 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

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- 884 (iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.
- 886 (d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.
- 894 (e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.
- 898 (5)
- . (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.
- 900 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.
- 903 (6) The sentencing enhancement described in this section does not apply if:
- 904 (a) the offense for which the person is being sentenced is:
- 905 (i) a grievous sexual offense;
- 906 (ii) child kidnapping, Section 76-5-301.1;
- 907 (iii) aggravated kidnapping, Section 76-5-302; or
- 908 (iv) forcible sexual abuse, Section 76-5-404; and
- 909 (b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

912 Section **76-5d-101** is renumbered and amended to read:

914

CHAPTER 5d. PROSTITUTION

915

Part 1. General Provisions

916

~~[76-10-1301]~~ 76-5d-101. (Effective 05/07/25) **Definitions.**

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As used in this ~~part~~ chapter:

- 918 (1) "Adult" is an individual who is 18 years old or older.
- 919 (a) "Child" is an individual younger than 18 years old.
- 920 (b) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV) infection
determined by current medical standards and detected by any of the following:
- 923 (i) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot with an
interpretation based on criteria currently recommended by the Association of State and Territorial
Public Health Laboratory Directors or another confirmatory test approved by the Utah State Health
Laboratory;
- 927 (ii) presence of HIV antigen;
- 928 (iii) isolation of HIV; or
- 929 (iv) demonstration of HIV proviral DNA.
- 930 (c) "HIV positive individual" means an individual who has an HIV infection.
- 931 (d) "Local law enforcement agency" means an agency responsible for investigating violations of
offenses in Part 2, General Offenses, the filing of charges that may lead to convictions, and the
conducting of, or obtaining the results of, tests for HIV infection.
- 935 ~~[(2) "Place of prostitution" means a place or business where prostitution or promotion of prostitution~~
~~is arranged, regularly carried on, or attempted by one or more individuals under the control,~~
~~management, or supervision of another.]~~
- 938 (2) "Positive" means an indication of HIV infection.
- 939 ~~[(3) "Prostitute" or "prostituted"]~~
- 940 (a) "Prostituted individual" means an individual engaged in [an activity described in Subsection
76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f)] prostitution or sexual solicitation.
- 943 (b) "Prostitution" means engaging in sexual activity with another individual in exchange for a fee or the
functional equivalent of a fee.
- 945 ~~[(4)]~~
- 946 (3) "Public place" means a place to which the public or any substantial group of the public has access.
- 948 ~~[(5)]~~ (a) "Sexual activity" means, regardless of the gender of either participant:
- 949 ~~[(a)]~~ (i) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one
individual and the mouth or anus of another individual; or
- 951

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~~[(b)]~~ (ii) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

954 (b) "Sexual solicitation" means the conduct described in Section 76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation.

956 (c) "Test" means a test for HIV infection in accordance with standards recommended by the Department of Health and Human Services.

958 Section **76-5d-102** is renumbered and amended to read:

960 ~~[76-10-1307]~~**76-5d-102. (Effective 05/07/25)Local ordinance consistent with code provisions.**

prostitution or aiding

prostitution shall

An ordinance adopted by a local authority governing the matters covered by this chapter are required to be consistent with the

provisions of this ~~[part which govern those matters]~~ chapter.

964 Section **76-5d-103** is renumbered and amended to read:

966 ~~[76-10-1311]~~**76-5d-103. (Effective 05/07/25)Mandatory testing -- Retention of medical file -- Civil liability.**

968 (1) ~~[A person]~~ An individual who has entered a plea of guilty, a plea of no contest, a plea of guilty with a mental condition, or been found guilty ~~[for]~~ of a violation of Section ~~[76-10-1302, 76-10-1303, or 76-10-1313 shall be]~~ 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 is required to submit before sentencing to a mandatory test to determine if the ~~[offender]~~ individual is an HIV positive individual.~~[-The mandatory test shall be required and conducted prior to sentencing.]~~

974 (2)

. (a) If the mandatory test described in Subsection (1) has not been conducted ~~[prior to]~~ before sentencing, and the convicted ~~[offender]~~ individual is already confined in a county jail or state prison, ~~[such person shall]~~ the individual is required to be tested while in confinement.

978 ~~[(3) The]~~

979 (b) For an individual described in Subsection (1) who is confined in a county jail, the local law enforcement agency shall cause the individual's blood specimen ~~[of the offender as defined in Subsection (1) confined in county jail]~~ to be taken and tested.

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- 982 [~~(4)~~ The-]
983 (c) For an individual described in Subsection (1) who is confined in a state prison, the Department of
Corrections shall cause the individual's blood specimen [~~of the offender defined in Subsection (1)~~
~~confined in any state prison~~] to be taken and tested.
- 986 [~~(5)~~ (3)]
987 . (a) The local law enforcement agency shall collect and retain in the [~~offender's~~] individual's medical file
the following data:
988 [~~(a)~~] (i) the HIV infection test results;
989 [~~(b)~~] (ii) a copy of the written notice as provided in Section [~~76-10-1312~~] 76-5d-104;
990 [~~(c)~~] (iii) photographic identification; and
991 [~~(d)~~] (iv) fingerprint identification.
- 992 [~~(6)~~] (b) The local law enforcement agency shall classify the medical file described in Subsection (3)
(a) as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to
Section 63G-2-304.
- 995 [~~(7)~~ The person tested shall be-]
996 (4)
997 . (a) An individual required to be tested under this section is responsible for the costs of testing, unless
the [~~person~~] individual is indigent.[-]
- 998 (b) [~~The costs will then~~] If an individual is indigent, the costs for the testing will be paid by the local
law enforcement agency or the Department of Corrections from the General Fund.
- 1001 [~~(8)~~ (5)]
1002 . (a) The laboratory performing testing shall report test results to only designated officials in the
Department of Corrections, the Department of Health and Human Services, and the local law
enforcement agency submitting the blood specimen.
- 1004 (b) Each department or agency shall designate [~~those~~] the officials described in Subsection (5)(a) by
written policy.
- 1006 (c) Designated officials may release information identifying an [~~offender~~] individual under Section
[~~76-10-1302, 76-10-1303, or 76-10-1313~~] 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209,
76-5d-210, or 76-5d-211 who has tested HIV positive as provided under Subsection 63G-2-202(1)
and for purposes of prosecution pursuant to Section [~~76-10-1309~~] 76-5d-212.
- 1011 [~~(9)~~ (6)]

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- (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct ~~[as provided in]~~ under Section 63G-7-202.
- 1015 (b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.
- 1019 ~~[(40)]~~ (7) When ~~[the]~~ a medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services, ~~or [its officers or employees are]~~ an officer or employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services, is not liable for damages for release of the medical file.
- 1024 Section ~~76-5d-104~~ is renumbered and amended to read:
- 1026 ~~[76-10-1312]~~ 76-5d-104. (Effective 05/07/25) Notice to a convicted individual of HIV positive test results.
- 1028 (1) ~~[A person]~~ An individual convicted under Section ~~[76-10-1302, 76-10-1303, or 76-10-1313]~~ 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 who has tested positive for the HIV infection shall be notified of the test results in person by:
- 1032 (a) the local law enforcement agency;
- 1033 (b) the Department of Corrections, for ~~[offenders]~~ an individual confined in ~~[any]~~ a state prison;
- 1035 (c) the ~~[state]~~ Department of Health and Human Services; or
- 1036 (d) an authorized representative of ~~[any of the agencies]~~ an agency listed in ~~[this Subsection~~ (1)] Subsections (1)(a) through (c).
- 1038 (2) The notice ~~[under]~~ described in Subsection (1) shall contain the signature of the HIV positive ~~[person]~~ individual, indicating the ~~[person's]~~ individual's receipt of the notice, the name and signature of the ~~[person]~~ individual providing the notice, and:
- 1041 (a) the date of the test;
- 1042 (b) the positive test results;
- 1043 (c) the name of the HIV positive individual; and
- 1044 (d) the following language:

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- 1045 [~~"A person"] "An individual~~ who has been convicted of engaging in prostitution under Section
[76-10-1302] 76-5d-202, patronizing a [~~prostitute~~] prostituted individual who is an adult under
Section [76-10-1303, ~~or~~] 76-5d-203, patronizing a prostituted individual who is a child under
Section 76-5d-204, entering or remaining in a place of prostitution under Section 76-5d-205,
sexual solicitation by an actor offering to engage in sexual activity for compensation under Section
[76-10-1313] 76-5d-209, sexual solicitation by an actor offering compensation to an adult in
exchange for sexual activity under Section 76-5d-210, or sexual solicitation by an actor offering
compensation to a child in exchange for sexual activity under Section 76-5d-211, after being
tested and diagnosed as an HIV positive individual and either had actual knowledge that the
[~~person~~] individual is an HIV positive individual or the [~~person~~] individual has previously been
convicted of any of the criminal offenses listed above is guilty of a third degree felony under
Section [76-10-1309] 76-5d-212."
- 1057 (3) Failure to provide [~~this notice~~] the notice described in Subsection (1), or to provide the notice in the
manner or form prescribed under this section, does not;
- 1059 (a) [~~-]create any civil liability[~~-and does not~~] ; or~~
- 1060 (b) [~~-]create a defense to [any] a prosecution under this [part] chapter.~~
- 1061 [~~(4) Upon conviction under Section 76-10-1309, and as a condition of probation, the offender shall~~
receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B,
Chapter 5, Health Care -- Substance Use and Mental Health.]
- 1064 Section **76-5d-105** is renumbered and amended to read:
- 1066 [~~76-10-1314~~]**76-5d-105. (Effective 05/07/25)Examination of testing procedures and results**
in legal proceedings.
- 1068 (1) Employees of [~~the~~] a laboratory who conduct laboratory analysis of blood samples for presence of
antibody to HIV provided pursuant to a request by a law enforcement agency or the Department of
Corrections under Section [76-10-1311] 76-5d-103, may be examined in a legal proceeding of any
kind or character as to:
- 1072 (a) the nature of the testing;
- 1073 (b) the validity of the testing;
- 1074 (c) the results of the test;
- 1075 (d) the HIV positivity or negativity of the [~~person~~] individual tested;
- 1076 (e) the evidentiary chain of custody; and

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- 1077 (f) other factors relevant to the prosecution, subject to the court's ruling.
- 1078 (2) This section applies only to the criminal investigation and prosecution under Section ~~[76-10-1309~~
which permits enhanced penalties upon a subsequent conviction for:] 76-5d-212, Engaging in
prostitution or sexual solicitation as an HIV positive offender.
- 1081 ~~[(a) prostitution, Section 76-10-1302;]~~
- 1082 ~~[(b) patronizing a prostitute, Section 76-10-1303; or]~~
- 1083 ~~[(c) sexual solicitation, Section 76-10-1313.]~~
- 1084 Section **76-5d-106** is renumbered and amended to read:
- 1086 ~~[76-10-1315]~~ **76-5d-106. (Effective 05/07/25) Safe harbor for children as victims in**
commercial sex or sexual solicitation.
- 1088 (1) As used in this section:
- 1089 (a) "Child engaged in commercial sex or sexual solicitation" means a child who:
- 1090 (i) engages, offers, or agrees to engage in any sexual activity with another individual in exchange for
receiving a fee, or the functional equivalent of a fee;
- 1092 (ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at
an arranged place for the purpose of sexual activity in exchange for receiving a fee or the functional
equivalent of a fee; ~~[or]~~
- 1095 (iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual
activity~~[-] ; or~~
- 1097 (iv) engages in sexual solicitation.
- 1098 ~~[(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage~~
~~in any sexual activity with another person for a fee, or the functional equivalent of a fee, under~~
~~Subsection 76-10-1313(1)(a), (c), (d), or (f).]~~
- 1101 ~~[(c)]~~ (b) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- 1103 ~~[(d)]~~ (c) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.
- 1105 (2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement
officer shall:
- 1107 (a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections
76-5-308, 76-5-308.1, and 76-5-308.5;
- 1109 (b) refer the child to the division;
- 1110 (c) bring the child to a juvenile receiving center, if available; and

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1111 (d) contact the child's parent or guardian, if practicable.

1112 (3) When law enforcement refers a child to the division under Subsection (2)(b), the division shall provide services to the child under Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

1115 [~~(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sexual solicitation under Section 76-10-1313.~~]

1117 Section 14 is enacted to read:

1118

Part 2. General Offenses

1119 **76-5d-201. (Effective 05/07/25)Definitions.**

As used in this part, "place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another individual.

1124 Section **76-5d-202** is renumbered and amended to read:

1126 **[76-10-1302]76-5d-202. (Effective 05/07/25)Engaging in prostitution.**

1127 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1128 [(1)] (2) An actor[~~, except for a child under Section 76-10-1315, is guilty of] commits the offense of engaging in prostitution if the actor:~~

1130 (a) [~~-~~] is 18 years old or older; and

1131 (b) engages in sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee.

1133 [(2)] (3)

(a) Except as provided in Subsection ~~[(2)(b) and Section 76-10-1309]~~ (3)(b), a violation of Subsection ~~[(1)] (2)~~ is a class B misdemeanor.

1135 (b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or]~~ A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of:

1139 (i) a violation of Subsection (2); or

1140 (ii) [~~under~~]a local ordinance adopted [~~under~~] in accordance with Section ~~[76-10-1307, is guilty of a class A misdemeanor]~~ 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

1143

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~~[(3)]~~ (4) A prosecutor may not prosecute an actor for a violation of Subsection ~~[(1)]~~ (2) if the actor engages in a violation of Subsection ~~[(1)]~~ (2) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the actor reports the offense or attempt to law enforcement in good faith:

- 1148 (a) assault~~[-]~~ as described in Section 76-5-102;
- 1149 (b) aggravated assault~~[-]~~ as described in Section 76-5-103;
- 1150 (c) mayhem~~[-]~~ as described in Section 76-5-105;
- 1151 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault ~~[under]~~ as described in Chapter 5, Part 2, Criminal Homicide;
- 1154 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child ~~[under]~~ as described in Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 1158 (f) rape~~[-]~~ as described in Section 76-5-402;
- 1159 (g) rape of a child~~[-]~~ as described in Section 76-5-402.1;
- 1160 (h) object rape~~[-]~~ as described in Section 76-5-402.2;
- 1161 (i) object rape of a child~~[-]~~ as described in Section 76-5-402.3;
- 1162 (j) forcible sodomy~~[-]~~ as described in Section 76-5-403;
- 1163 (k) sodomy on a child~~[-]~~ as described in Section 76-5-403.1;
- 1164 (l) forcible sexual abuse~~[-]~~ as described in Section 76-5-404;
- 1165 (m) sexual abuse of a child~~[-]~~ as described in Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;
- 1167 (n) aggravated sexual assault~~[-]~~ as described in Section 76-5-405;
- 1168 (o) sexual exploitation of a minor~~[-]~~ as described in Section 76-5b-201;
- 1169 (p) aggravated sexual exploitation of a minor~~[-]~~ as described in Section 76-5b-201.1;
- 1170 (q) sexual exploitation of a vulnerable adult~~[-]~~ as described in Section 76-5b-202;
- 1171 (r) ~~[aggravated burglary or]~~ burglary of a dwelling ~~[under Chapter 6, Part 2, Burglary and Criminal Trespass]~~ as described in Subsection 76-6-202(3)(b);
- 1173 (s) aggravated burglary as described in Section 76-6-203;
- 1174 ~~[(s) aggravated robbery or]~~
- 1175 (t) robbery ~~[under Chapter 6, Part 3, Robbery]~~ as described in Section 76-6-301;
- 1176 (u) aggravated robbery as described in Section 76-6-302; or

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- 1177 [(+) (v) theft by extortion [~~under~~] as described in Section 76-6-406 under the circumstances described
in Subsection 76-6-406(1)(a)(i) or (ii).
- 1179 (5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of
a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this
section.
- 1182 Section **76-5d-203** is renumbered and amended to read:
- 1184 [~~76-10-1303~~]**76-5d-203. (Effective 05/07/25)Patronizing a prostituted individual who is an
adult.**
- 1186 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- 1187 [(+) (2) An actor [~~is guilty of~~] commits the offense of patronizing [a prostitute if the actor] a prostituted
individual who is an adult if:
- 1189 (a) the actor pays[~~es~~] , offers to pay, or agrees to pay [a] an adult prostituted individual, or an adult
individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a
fee[~~s~~] ; and
- 1192 (b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the
purpose of engaging in an act of sexual activity[~~s~~] .
- 1194 [(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.]
- 1196 [(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5)
or Section 76-10-1309.]
- 1198 [(3) A violation of this section that is preceded by a conviction under this section or a conviction under
a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.]
- 1201 [(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307 is a third
degree felony.]
- 1203 [(5)
- . (a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under Subsection (1)(a)
involves a child as the other individual, a violation of Subsection (1)(a) is a second degree felony.]
- 1206 [(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under Subsection (5)(a)
that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense
or was unaware of the individual's true age.]
- 1209 [(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the
individual was 18 years old or older, is a violation of Subsection (5)(a).]

HB0022 compared with HB0022S01

- 1211 [~~(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a greater
penalty under another provision of state law than is provided under Subsection (5)(a), this
Subsection (5) does not prohibit prosecution and sentencing for the more serious offense.]~~
- 1215 (3)
- . (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
- 1217 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two
or more times of:
- 1219 (i) a violation of Subsection (2); or
- 1220 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type
of violation to the violation described in Subsection (2).
- 1222 [(6)] (4) Upon a conviction for a violation of this section, the court shall order:
- 1223 (a) the maximum fine amount and may not waive or suspend the fine; and
- 1224 (b) the [~~defendant~~] actor to pay for and complete a court-approved educational program about the
negative effects on an individual involved with prostitution or human trafficking.
- 1227 Section 17 is enacted to read:
- 1228 **76-5d-204. (Effective 05/07/25) Patronizing a prostituted individual who is a child.**
- 1230 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- 1231 (2) An actor commits patronizing a prostituted individual who is a child if:
- 1232 (a) the actor is 12 years old or older;
- 1233 (b) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an individual the actor
believes to be a prostituted individual, a fee, or the functional equivalent of a fee;
- 1236 (c) the payment, offer of payment, or agreement for payment described in Subsection (2)(b) is for the
purpose of engaging in an act of sexual activity; and
- 1238 (d) the prostituted individual, or the individual the actor believes to be a prostituted individual,
described in Subsection (2)(b) is:
- 1240 (i) a child; or
- 1241 (ii) believed by the actor to be a child.
- 1242 (3)
- . (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.
- 1244 (b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:
- 1246 (i) a third degree felony if:

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- 1247 (A) the actor is 17 years old and the prostituted individual is 13 years old or younger; or
1249 (B) the actor is 16 years old and the prostituted individual is 12 years old or younger;
1251 (ii) a class A misdemeanor if:
1252 (A) the actor is 17 years old and the prostituted individual is 14 years old;
1253 (B) the actor is 16 years old and the prostituted individual is 13 years old;
1254 (C) the actor is 15 years old and the prostituted individual is 12 years old or younger; or
1256 (D) the actor is 14 years old and the prostituted individual is 11 years old or younger;
1258 (iii) a class B misdemeanor if:
1259 (A) the actor is 17 years old and the prostituted individual is 15 years old;
1260 (B) the actor is 16 years old and the prostituted individual is 14 years old;
1261 (C) the actor is 15 years old and the prostituted individual is 13 years old;
1262 (D) the actor is 14 years old and the prostituted individual is 12 years old;
1263 (E) the actor is 13 years old and the prostituted individual is 11 years old or younger; or
1265 (F) the actor is 12 years old and the prostituted individual is 10 years old or younger; or
1267 (iv) a class C misdemeanor if:
1268 (A) the actor is 17 years old and the prostituted individual is 16 or 17 years old;
1269 (B) the actor is 16 years old and the prostituted individual is 15 years old or older;
1270 (C) the actor is 15 years old and the prostituted individual is 14 years old or older;
1271 (D) the actor is 14 years old and the prostituted individual is 13 years old or older;
1272 (E) the actor is 13 years old and the prostituted individual is 12 years old or older; or
1274 (F) the actor is 12 years old and the prostituted individual is 11 years old or older.
1275 (4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the individual described in Subsection (2) to be 18 years old or older at the time of the offense or was unaware of the individual's true age.
1279 (5) If the violation of Subsection (2) amounts to an offense that is subject to a greater penalty under another provision of law, this section does not prohibit prosecution and sentencing for the more serious offense.
1282 (6) Upon a conviction for a violation of this section, the court shall order:
1283 (a) the maximum fine amount and may not waive or suspend the fine; and
1284 (b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

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1286 Section 18 is enacted to read:

1287 **76-5d-205.** (Effective 05/07/25) **Entering or remaining in a place of prostitution.**

1288 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1289 (2) An actor commits entering or remaining in a place of prostitution if the actor enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

1291 (3)

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

1293 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

1295 (i) a violation of Subsection (2); or

1296 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

1298 (4) Upon a conviction for a violation of this section, the court shall order:

1299 (a) the maximum fine amount and may not waive or suspend the fine; and

1300 (b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

1302 Section **76-5d-206** is renumbered and amended to read:

1304 ~~[76-10-1304]~~ **76-5d-206.** (Effective 05/07/25) **Aiding prostitution.**

1305 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1306 ~~[(1)]~~ (2) An ~~[individual is guilty of]~~ actor commits aiding prostitution if the ~~[individual]~~ actor:

1307 (a)

. (i) solicits an individual to patronize a ~~[prostitute]~~ prostituted individual, or to patronize an individual the actor believes to be a ~~[prostitute]~~ prostituted individual;

1309 (ii) procures or attempts to procure a ~~[prostitute]~~ prostituted individual, or an individual the actor believes to be a ~~[prostitute]~~ prostituted individual, for a patron;

1311 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another individual, to be used for prostitution or the promotion of prostitution; or

1314 (iv) provides ~~[any]~~ a service or commits ~~[any]~~ an act that enables another individual to commit a violation of ~~[this Subsection (1)(a)]~~ this Subsection (2) or facilitates another individual's ability to commit ~~[any]~~ a violation of ~~[this Subsection (1)(a)]~~ this Subsection (2); or

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- (b) solicits, receives, or agrees to receive [any] a benefit for committing any of the acts prohibited by Subsection [(1)(a)] (2)(a).
- 1320 [(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]
- 1321 [(3) An individual who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.]
- 1324 (3)
- . (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
- 1326 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of:
- 1328 (i) a violation of Subsection (2); or
- 1329 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).
- 1331 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.
- 1333 (5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by a prosecutor authorized in the code to prosecute a violation under this section.
- 1336 Section **76-5d-207** is renumbered and amended to read:
- 1338 **[76-10-1305]76-5d-207. (Effective 05/07/25)Exploitation of prostitution.**
- 1339 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- 1340 [(1)] (2) An [individual is guilty of exploiting] actor commits exploitation of prostitution if the [individual] actor:
- 1342 (a) procures an individual for a place of prostitution;
- 1343 (b) encourages, induces, or otherwise purposely causes another individual to become or remain a [prostitute] prostituted individual;
- 1345 (c) transports an individual into or within this state with [a] the purpose to promote [that] the individual's [engaging] engagement in prostitution;
- 1347 (d) [~~or procuring or paying for~~] procures or pays for an individual's transportation with [that] the purpose of promoting the individual's engagement in prostitution;
- 1349 [(d)] (e) not being a child or legal dependent of a [prostitute] prostituted individual, shares the proceeds of prostitution with a [prostitute] prostituted individual, or an individual the actor believes to be

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a ~~[prostitute]~~ prostituted individual, pursuant to ~~[their]~~ the actor's and prostituted individual's understanding that the actor is to share ~~[therein]~~ in the proceeds of the prostitution; or

1354 ~~[(e)]~~ (f) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another individual, a place of prostitution or a business where prostitution occurs or is arranged, encouraged, supported, or promoted.

1357 ~~[(2)]~~ (3) ~~[Exploiting prostitution is a felony of the]~~ A violation of Subsection (2) is a third degree felony.

1359 ~~[(3)]~~ (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

1361 Section **76-5d-208** is renumbered and amended to read:

1363 ~~[76-10-1306]~~ **76-5d-208. (Effective 05/07/25) Aggravated exploitation of prostitution.**

1364 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1365 ~~[(4)]~~ (2) ~~[A person is guilty of]~~ An actor commits aggravated exploitation of prostitution if:

1366 (a) in committing an act of ~~[exploiting]~~ exploitation of prostitution~~[, as defined in]~~ as described in Section ~~[76-10-1305]~~ 76-5d-207, the ~~[person]~~ actor uses any force, threat, or fear against any ~~[person]~~ individual;

1369 (b) the ~~[person]~~ individual whom the actor procured, transported, or persuaded or with whom the ~~[person]~~ actor shares the proceeds of prostitution is a child or is the spouse of the actor; or

1372 (c) in the course of committing an act of exploitation of prostitution~~[, a violation of Section 76-10-1305]~~ as described in Section 76-5d-207, the ~~[person]~~ actor commits human trafficking or human smuggling~~[, a]~~ in violation of Section 76-5-308, 76-5-308.1, 76-5-308.3, or 76-5-308.5.

1376 ~~[(2)]~~ (3)

~~[(a)]~~ ~~[Aggravated exploitation of prostitution]~~ Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony~~[, except under Subsection (3)].~~

1379 ~~[(3)]~~ (b) ~~[Aggravated exploitation of prostitution involving a child]~~ A violation of Subsection (2) is a first degree felony if the violation involves a child.

1381 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

1383 Section **76-5d-209** is renumbered and amended to read:

1385 ~~[76-10-1313]~~ **76-5d-209. (Effective 05/07/25) Sexual solicitation by an actor offering to engage in sexual activity for compensation.**

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- 1387 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- 1388 ~~[(1)]~~ (2) An [individual except for a child under Section 76-10-1315 is guilty of] actor commits the offense of sexual solicitation by an actor offering to engage in sexual activity for compensation if the [individual] actor:
- 1391 (a) is 18 years old or older; and
- 1392 ~~[(a)]~~ (b)
- . (i) offers or agrees to commit any sexual activity with another individual [for] in exchange for receiving a fee, or the functional equivalent of a fee;
- 1394 ~~[(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity;]~~
- 1396 ~~[(e)]~~ (ii)
- . (A) takes steps to arrange a meeting with another individual through any form of advertising or agreement to meet[~~-, and~~] ;
- 1398 (B) ~~[-]meets the individual at an arranged place; and~~
- 1399 (C) ~~[-] arranged and met the individual for the purpose of being hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee;~~
- 1402 ~~[(d)]~~ (iii) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee; or
- 1405 ~~[(e) with intent to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee, requests or directs the other individual to engage in any of the following acts:]~~
- 1408 ~~[(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;]~~
- 1410 ~~[(ii) masturbation;]~~
- 1411 ~~[(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or]~~
- 1413 ~~[(iv) any act of lewdness; or]~~
- 1414 ~~[(f)]~~ (iv) with intent to be hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in[~~an act described in Subsection (1)(e)(i) through (iv)].~~] , any of the following acts:
- 1418 (A) exposure or touching of an individual's genitals, buttocks, anus, pubic area, or female breast below the top of the areola;
- 1420 (B) masturbation; or

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- 1421 (C) any act of lewdness.
- 1422 [~~(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1) (e) or (f) under the totality of the existing circumstances.~~]
- 1426 (3) [~~Except as provided in Section 76-10-1309 and Subsections (4) and (5), a~~] A violation of Subsection~~[(1)(a), (e), (d), or (f)]~~ (2) or under a local ordinance adopted in compliance with Section ~~[76-10-1307]~~ 76-5d-102 is:
- 1429 (a) a class B misdemeanor on a first or second violation; [~~and~~] or
- 1430 (b) a class A misdemeanor on a third or subsequent violation.
- 1431 [~~(4) Except as provided in Section 76-10-1309 and Subsections (5) and (8), a violation of Subsection (1) (b) or (c) or a local ordinance adopted under Section 76-10-1307 is:~~]
- 1433 [~~(a) a class A misdemeanor on the first or second violation; and~~]
- 1434 [~~(b) a third degree felony on a third or subsequent violation.~~]
- 1435 [~~(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and the individual solicited is a child, the offense is a second degree felony if the solicitation does not amount to a violation of:~~]
- 1438 [~~(a) Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3, human smuggling; or~~]
- 1440 [~~(b) Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated human smuggling.~~]
- 1442 (4) An intent to be hired to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b)(iv) under the totality of the existing circumstances.
- 1446 [~~(6)~~] (5)
- . (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection ~~[76-10-1315(2)]~~ 76-5d-106(2).
- 1449 (b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.
- 1452 [~~(7)~~] (6) A prosecutor may not prosecute an [~~individual~~] actor for a violation of Subsection [~~(1)~~] (2) if the [~~individual~~] actor engages in a violation of Subsection [~~(1)~~] (2) at or near the time the [~~individual~~] actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the

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offenses, described in Subsection ~~[76-10-1302(3)]~~ 76-5d-202(4), and the ~~[individual]~~ actor reports the offense or attempt to law enforcement in good faith.

1457 ~~[(8)]~~ (7)

. [(a)] As part of a sentence imposed under Subsection (3), the court may lower, waive, or suspend a fine if the ~~[defendant]~~ actor completes a court-approved program that provides information or services intended to help an individual no longer engage in prostitution.

1461 ~~[(b) As part of a sentence imposed under Subsection (4), the court shall order the defendant to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.]~~

1464 Section 23 is enacted to read:

1465 **76-5d-210. (Effective 05/07/25)Sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity.**

1467 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1468 (2) An actor commits the offense of sexual solicitation by an actor offering compensation in exchange for sexual activity if the actor:

1470 (a) pays, offers to pay, or agrees to pay a fee or the functional equivalent of a fee to an adult to hire the adult to commit any sexual activity; or

1472 (b) with intent to pay an adult to be hired to commit any sexual activity for a fee or the functional equivalent of a fee, requests or directs the adult to engage in any of the following acts:

1475 (i) exposure or touching of an adult's genitals, buttocks, anus, pubic area, or female breast below the top of the areola;

1477 (ii) masturbation; or

1478 (iii) any act of lewdness.

1479 (3) A violation of Subsection (2) or under a local ordinance adopted in compliance with Section 76-5d-102 is:

1481 (a) a class A misdemeanor on a first or second violation; or

1482 (b) a third degree felony on a third or subsequent violation.

1483 (4) As part of a sentence imposed under Subsection (3), the court shall order the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

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(5) The actor's intent to hire an adult to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.

1490 (6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.

1495 Section 24 is enacted to read:

1496 **76-5d-211. (Effective 05/07/25)Sexual solicitation by an actor offering compensation to a child in exchange for sexual activity.**

1498 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1499 (2) Under circumstances not amounting to an offense described in Subsection (4), an actor commits the offense of sexual solicitation by an actor offering compensation to a child in exchange for sexual activity if the actor:

1502 (a) is 12 years old or older; and

1503 (b)

. (i) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a child to hire the child to commit any sexual activity; or

1505 (ii) with intent to pay a child to be hired to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the child to engage in any of the following acts:

1508 (A) exposure or touching of the child's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

1510 (B) masturbation; or

1511 (C) any act of lewdness.

1512 (3)

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

1514 (b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:

1516 (i) a third degree felony if:

1517 (A) the actor is 17 years old and the child is 13 years old or younger; or

1518 (B) the actor is 16 years old and the child is 12 years old or younger;

1519 (ii) a class A misdemeanor if:

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- 1520 (A) the actor is 17 years old and the child is 14 years old;
- 1521 (B) the actor is 16 years old and the child is 13 years old;
- 1522 (C) the actor is 15 years old and the child is 12 years old or younger; or
- 1523 (D) the actor is 14 years old and the child is 11 years old or younger;
- 1524 (iii) a class B misdemeanor if:
- 1525 (A) the actor is 17 years old and the child is 15 years old;
- 1526 (B) the actor is 16 years old and the child is 14 years old;
- 1527 (C) the actor is 15 years old and the child is 13 years old;
- 1528 (D) the actor is 14 years old and the child is 12 years old;
- 1529 (E) the actor is 13 years old and the child is 11 years old or younger; or
- 1530 (F) the actor is 12 years old and the child is 10 years old or younger; or
- 1531 (iv) a class C misdemeanor if:
- 1532 (A) the actor is 17 years old and the child is 16 or 17 years old;
- 1533 (B) the actor is 16 years old and the child is 15 years old or older;
- 1534 (C) the actor is 15 years old and the child is 14 years old or older;
- 1535 (D) the actor is 14 years old and the child is 13 years old or older;
- 1536 (E) the actor is 13 years old and the child is 12 years old or older; or
- 1537 (F) the actor is 12 years old and the child is 11 years old or older.
- 1538 (4) The offenses referred to in Subsection (2) are:
- 1539 (a) human trafficking for labor as described in Section 76-5-308;
- 1540 (b) human trafficking for sexual exploitation as described in Section 76-5-308.1;
- 1541 (c) human smuggling as described in Section 76-5-308.3;
- 1542 (d) human trafficking of a child as described in Section 76-5-308.5;
- 1543 (e) aggravated human trafficking as described in Section 76-5-310; and
- 1544 (f) aggravated human smuggling as described in Section 76-5-310.1.
- 1545 (5) The actor's intent to hire a child to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.
- 1549 (6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the

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offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.

1554 (7)

(a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).

1557 (b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

1560 Section **76-5d-212** is renumbered and amended to read:

1562 **[76-10-1309]76-5d-212. (Effective 05/07/25)Engaging in prostitution or sexual solicitation as an HIV positive offender.**

[A person]

1565 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1566 (2) ~~[who is convicted of prostitution under]~~ An actor commits engaging in prostitution or sexual solicitation as an HIV positive offender if the actor:

1568 (a) is an HIV positive individual;

1569 (b) is convicted of:

1570 (i) engaging in prostitution under Section [76-10-1302,] 76-5d-202;

1571 (ii) patronizing a [prostitute under] a prostituted individual who is an adult under Section [76-10-1303, or] 76-5d-203;

1573 (iii) patronizing a prostituted individual who is a child under Section 76-5d-204;

1574 (iv) entering or remaining in a place of prostitution under Section76-5d-205;

1575 (v) sexual solicitation [under] by an actor offering to engage in sexual activity for compensation under Section [76-10-1313] 76-5d-209;

1577 (vi) ~~[is guilty of a third degree felony if at the time of the offense the person is an HIV positive individual, and the person:]~~ sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity under Section 76-5d-210; or

1581 (vii) sexual solicitation by an actor offering compensation to a child in exchange for sexual activity under Section 76-5d-211; and

1583 [(4)] (c)

(i) has actual knowledge [of the fact] that the actor is an HIV positive individual; or

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[(2)] (ii) has previously been convicted [~~under Section 76-10-1302, 76-10-1303, or 76-10-1313~~] of a violation of Section 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211.

1588 (3) A violation of Subsection (2) is a third degree felony.

1589 (4) Upon conviction under this section, and as a condition of probation, the actor shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

1592 Section 26. Section **76-10-1602** is amended to read:

1593 **76-10-1602. (Effective 05/07/25)Definitions.**

As used in this part:

1595 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

1598 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

1608 (3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

1610 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

1616 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

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- (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;
- 1620 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;
- 1623 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
- 1625 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;
- 1627 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
- 1629 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;
- 1633 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;
- 1635 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;
- 1637 (j) assault under Section_76-5-102;
- 1638 (k) aggravated assault under Section 76-5-103;
- 1639 (l) a threat of terrorism under Section 76-5-107.3;
- 1640 (m) a criminal homicide offense under Section 76-5-201;
- 1641 (n) kidnapping under Section_76-5-301;
- 1642 (o) aggravated kidnapping under Section_76-5-302;
- 1643 (p) human trafficking for labor under Section 76-5-308;
- 1644 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1645 (r) human smuggling under Section 76-5-308.3;
- 1646 (s) human trafficking of a child under Section_76-5-308.5;
- 1647 (t) benefiting from trafficking and human smuggling under Section_76-5-309;
- 1648 (u) aggravated human trafficking under Section_76-5-310;
- 1649 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1650 (w) aggravated sexual exploitation of a minor under Section_76-5b-201.1;
- 1651 (x) arson under Section 76-6-102;
- 1652 (y) aggravated arson under Section_76-6-103;

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- 1653 (z) causing a catastrophe under Section 76-6-105;
- 1654 (aa) burglary under Section 76-6-202;
- 1655 (bb) aggravated burglary under Section_76-6-203;
- 1656 (cc) burglary of a vehicle under Section 76-6-204;
- 1657 (dd) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
- 1659 (ee) robbery under Section 76-6-301;
- 1660 (ff) aggravated robbery under Section_76-6-302;
- 1661 (gg) theft under Section 76-6-404;
- 1662 (hh) theft by deception under Section 76-6-405;
- 1663 (ii) theft by extortion under Section 76-6-406;
- 1664 (jj) receiving stolen property under Section 76-6-408;
- 1665 (kk) theft of services under Section 76-6-409;
- 1666 (ll) forgery under Section 76-6-501;
- 1667 (mm) unlawful use of financial transaction card under Section_76-6-506.2;
- 1668 (nn) unlawful acquisition, possession, or transfer of financial transaction card under Section_76-6-506.3;
- 1670 (oo) financial transaction card offenses under Section_76-6-506.6;
- 1671 (pp) deceptive business practices under Section 76-6-507;
- 1672 (qq) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
- 1674 (rr) bribery of a labor official under Section 76-6-509;
- 1675 (ss) defrauding creditors under Section 76-6-511;
- 1676 (tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 1677 (uu) unlawful dealing with property by fiduciary under Section 76-6-513;
- 1678 (vv) bribery or threat to influence contest under Section 76-6-514;
- 1679 (ww) making a false credit report under Section 76-6-517;
- 1680 (xx) criminal simulation under Section 76-6-518;
- 1681 (yy) criminal usury under Section 76-6-520;
- 1682 (zz) insurance fraud under Section 76-6-521;
- 1683 (aaa) retail theft under Section 76-6-602;
- 1684 (bbb) computer crimes under Section 76-6-703;
- 1685 (ccc) identity fraud under Section 76-6-1102;

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- 1686 (ddd) mortgage fraud under Section 76-6-1203;
- 1687 (eee) sale of a child under Section 76-7-203;
- 1688 (fff) bribery to influence official or political actions under Section 76-8-103;
- 1689 (ggg) threat to influence official or political action under Section 76-8-104;
- 1690 (hhh) receiving bribe or bribery by public servant under Section 76-8-105;
- 1691 (iii) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
- 1693 (jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
- 1694 (kkk) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
- 1696 (lll) official misconduct concerning inside information under Section 76-8-202;
- 1697 (mmm) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- 1699 (nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
- 1701 (ooo) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
- 1703 (ppp) making a false or inconsistent material statement under Section 76-8-502;
- 1704 (qqq) making a false or inconsistent statement under Section 76-8-503;
- 1705 (rrr) making a written false statement under Section 76-8-504;
- 1706 (sss) tampering with a witness under Section 76-8-508;
- 1707 (ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 1708 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 1709 (vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 1710 (www) tampering with evidence under Section 76-8-510.5;
- 1711 (xxx) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;
- 1714 (yyy) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;
- 1716 (zzz) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;
- 1718 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;
- 1719 (bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
- 1720 (cccc) false statement to obtain or increase unemployment compensation under Section 76-8-1301;
- 1722 (dddd) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

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- 1724 (eeee) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;
- 1726 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;
- 1727 (gggg) intentionally or knowingly causing one animal to fight with another under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 1729 (hhhh) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;
- 1731 (iiii) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;
- 1733 (jjjj) possession of a deadly weapon with intent to assault under Section 76-10-507;
- 1734 (kkkk) unlawful marking of pistol or revolver under Section 76-10-521;
- 1735 (llll) alteration of number or mark on pistol or revolver under Section 76-10-522;
- 1736 (mmmm) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;
- 1738 (nnnn) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;
- 1740 (oooo) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;
- 1742 (pppp) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;
- 1744 (qqqq) gambling under Section 76-10-1102;
- 1745 (rrrr) gambling fraud under Section 76-10-1103;
- 1746 (ssss) gambling promotion under Section 76-10-1104;
- 1747 (tttt) possessing a gambling device or record under Section 76-10-1105;
- 1748 (uuuu) confidence game under Section 76-10-1109;
- 1749 (vvvv) distributing pornographic material under Section 76-10-1204;
- 1750 (wwww) inducing acceptance of pornographic material under Section 76-10-1205;
- 1751 (xxxx) dealing in harmful material to a minor under Section 76-10-1206;
- 1752 (yyyy) distribution of pornographic films under Section 76-10-1222;
- 1753 (zzzz) indecent public displays under Section 76-10-1228;
- 1754 (aaaaa) engaging in prostitution under Section [~~76-10-1302~~] 76-5d-202;
- 1755 (bbbbbb) aiding prostitution under Section [~~76-10-1304~~] 76-5d-206;

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- 1756 (ccccc) exploiting prostitution under Section [76-10-1305] 76-5d-206;
- 1757 (dddd) aggravated exploitation of prostitution under Section [76-10-1306] 76-5d-207;
- 1758 (eeee) communications fraud under Section 76-10-1801;
- 1759 (ffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;
- 1761 (ggggg) vehicle compartment for contraband under Section 76-10-2801;
- 1762 (hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in this state; or
- 1764 (iiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).
- 1766 Section 27. Section **77-23a-8** is amended to read:
- 1767 **77-23a-8. (Effective 05/07/25) Court order to authorize or approve interception --**
- Procedure.**
- 1769 (1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.
- 1776 (2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:
- 1778 (a) an act:
- 1779 (i) prohibited by the criminal provisions of:
- 1780 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 1781 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 1782 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
- 1783 (ii) punishable by a term of imprisonment of more than one year;
- 1784 (b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;
- 1786 (c) an offense:
- 1787 (i) of:

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- 1788 (A) attempt under Section 76-4-101;
- 1789 (B) conspiracy under Section 76-4-201;
- 1790 (C) criminal solicitation of an adult, Section 76-4-203; or
- 1791 (D) criminal solicitation of a minor, Section 76-4-205; and
- 1792 (ii) punishable by a term of imprisonment of more than one year;
- 1793 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year under Section 76-5-107.3;
- 1795 (e)
- . (i) aggravated murder under Section 76-5-202;
- 1796 (ii) murder under Section 76-5-203; or
- 1797 (iii) manslaughter under Section 76-5-205;
- 1798 (f)
- . (i) kidnapping under Section 76-5-301;
- 1799 (ii) child kidnapping under Section 76-5-301.1;
- 1800 (iii) aggravated kidnapping under Section 76-5-302;
- 1801 (iv) human trafficking for labor under Section 76-5-308;
- 1802 (v) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1803 (vi) human trafficking of a child under Section 76-5-308.5;
- 1804 (vii) human smuggling under Section 76-5-308.3;
- 1805 (viii) aggravated human trafficking under Section 76-5-310; or
- 1806 (ix) aggravated human smuggling under Section 76-5-310.1;
- 1807 (g)
- . (i) arson under Section 76-6-102; or
- 1808 (ii) aggravated arson under Section 76-6-103;
- 1809 (h)
- . (i) burglary under Section 76-6-202; or
- 1810 (ii) aggravated burglary under Section 76-6-203;
- 1811 (i)
- . (i) robbery under Section 76-6-301; or
- 1812 (ii) aggravated robbery under Section 76-6-302;
- 1813 (j) an offense:

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- 1814 (i) of:
- 1815 (A) theft under Section 76-6-404;
- 1816 (B) theft by deception under Section 76-6-405; or
- 1817 (C) theft by extortion under Section 76-6-406; and
- 1818 (ii) punishable by a maximum term of imprisonment of more than one year;
- 1819 (k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year under Section 76-6-408;
- 1821 (l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;
- 1823 (m) bribery of a labor official under Section 76-6-509;
- 1824 (n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;
- 1825 (o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-518;
- 1827 (p) criminal usury under Section 76-6-520;
- 1828 (q) insurance fraud punishable by a maximum term of imprisonment of more than one year under Section 76-6-521;
- 1830 (r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year under Section 76-6-703;
- 1832 (s) bribery to influence official or political actions under Section 76-8-103;
- 1833 (t) misusing public money or public property under Section 76-8-402;
- 1834 (u) tampering with a witness under Section 76-8-508;
- 1835 (v) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 1836 (w) tampering or retaliating against a juror under Section 76-8-508.5;
- 1837 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 1838 (y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 1839 (z) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- 1841 (aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
- 1843 (bb) destruction of property to interfere with preparations for defense or war under Section 76-8-802;
- 1845 (cc) an attempt to commit crimes of sabotage under Section 76-8-804;
- 1846 (dd) conspiracy to commit crimes of sabotage under Section 76-8-805;
- 1847 (ee) advocating criminal syndicalism or sabotage under Section 76-8-902;

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- 1848 (ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;
- 1849 (gg) riot punishable by a maximum term of imprisonment of more than one year under Section
76-9-101;
- 1851 (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term
of imprisonment of more than one year under Section 76-9-301.1;
- 1853 (ii) possession, use, or removal of an explosive, chemical, or incendiary device and parts under Section
76-10-306;
- 1855 (jj) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device under
Section 76-10-307;
- 1857 (kk) exploiting prostitution under Section [~~76-10-1305~~] 76-5d-207;
- 1858 (ll) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208;
- 1859 (mm) bus hijacking or assault with intent to commit hijacking under Section 76-10-1504;
- 1860 (nn) discharging firearms and hurling missiles under Section 76-10-1505;
- 1861 (oo) violations under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses
listed under the definition of unlawful activity in the act, including the offenses not punishable by
a maximum term of imprisonment of more than one year when those offenses are investigated as
predicates for the offenses prohibited by the act under Section 76-10-1602;
- 1866 (pp) communications fraud under Section 76-10-1801;
- 1867 (qq) money laundering under Sections 76-10-1903 and 76-10-1904; or
- 1868 (rr) reporting by a person engaged in a trade or business when the offense is punishable by a maximum
term of imprisonment of more than one year under Section 76-10-1906.
- 1871 Section 28. Section **77-38-3** is amended to read:
- 1872 **77-38-3. (Effective 05/07/25) Notification to victims -- Initial notice, election to receive
subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact
order.**
- 1875 (1) Within seven days after the day on which felony criminal charges are filed against a defendant, the
prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of
the crime contained in the charges, except as otherwise provided in this chapter.
- 1879 (2) The initial notice to the victim of a crime shall provide information about electing to receive notice
of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g)
and rights under this chapter.

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- 1882 (3) The prosecuting agency shall provide notice to a victim of a crime:
- 1883 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which
the victim has requested; and
- 1885 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.
- 1886 (4)
- . (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable
manner, including telephonically, electronically, orally, or by means of a letter or form prepared for
this purpose.
- 1889 (b) In the event of an unforeseen important criminal justice hearing, described in Subsections
77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact
the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency
subsequently notifies the victim of the result of the proceeding.
- 1894 (5)
- . (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings
provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be
notified.
- 1897 (b) The court shall consider whether any notification system that the court might use to provide notice
of judicial proceedings to defendants could be used to provide notice of judicial proceedings to
victims of crimes.
- 1900 (6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give
notice to the responsible prosecuting agency of any motion for modification of any determination
made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a)
through (g) in advance of any requested court hearing or action so that the prosecuting agency may
comply with the prosecuting agency's notification obligation.
- 1906 (7)
- . (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important
criminal justice hearing under Subsection 77-38-2(5)(h).
- 1908 (b) The board may provide notice in any reasonable manner, including telephonically, electronically,
orally, or by means of a letter or form prepared for this purpose.
- 1910 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim
of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the

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victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

1914 (9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

1917 (10)

. (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

1920 (b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

1923 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

1926 (12)

. (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

1931 (b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

1933 (i) a law enforcement agency, including the prosecuting agency;

1934 (ii) a victims' right committee as provided in Section 77-37-5;

1935 (iii) a governmentally sponsored victim or witness program;

1936 (iv) the Department of Corrections;

1937 (v) the Utah Office for Victims of Crime;

1938 (vi) the Commission on Criminal and Juvenile Justice;

1939 (vii) the Utah State Courts; and

1940 (viii) the Board of Pardons and Parole.

1941 (13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

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- 1944 (14)
- . (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section [~~76-10-1306~~] 76-5d-208 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:
- 1950 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;
- 1952 (ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and
- 1956 (iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.
- 1959 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.
- 1961 (c)
- . (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.
- 1964 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.
- 1966 (15)
- . (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.
- 1968 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.
- 1970 Section 29. Section **77-41-102** is amended to read:
- 1971 **77-41-102. (Effective 05/07/25)Definitions.**
- As used in this chapter:
- 1973 (1) "Child abuse offender" means an individual:
- 1974 (a) who has been convicted in this state of a violation of:
- 1975 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

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- 1976 (ii) attempting, soliciting, or conspiring to commit aggravated child abuse under Subsection
76-5-109.2(3)(a) or (b);
- 1978 (b)
- . (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in
another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the
offense listed in Subsection (1)(a); and
- 1981 (ii)
- . (A) who is a Utah resident; or
- 1982 (B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless
of whether the offender intends to permanently reside in this state;
- 1985 (c)
- . (i)
 - . (A) who is required to register as a child abuse offender in another jurisdiction of original
conviction;
- 1987 (B) who is required to register as a child abuse offender by a state, a federal, or a military court; or
- 1989 (C) who would be required to register as a child abuse offender if residing in the jurisdiction of the
conviction regardless of the date of the conviction or a previous registration requirement; and
- 1992 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender
intends to permanently reside in this state;
- 1994 (d)
- . (i)
 - . (A) who is a nonresident regularly employed or working in this state; or
- 1995 (B) who is a student in this state; and
- 1996 (ii)
- . (A) who was convicted of the offense listed in Subsection (1)(a) or a substantially equivalent offense in
another jurisdiction; or
- 1998 (B) who is required to register 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);
- 2001 (e) who is found not guilty by reason of insanity in this state or in another jurisdiction of the offense
listed in Subsection (1)(a); or
- 2003 (f)

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- . (i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection (1)(a); and
2005 (ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:
- 2007 (A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;
2009 (B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or
- 2012 (C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.
- 2014 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in ~~[section]~~ Section 53-10-201.
- 2016 (3) "Business day" means a day on which state offices are open for regular business.
- 2017 (4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.
- 2019 (5)
- . (a) "Convicted" means a plea or conviction of:
- 2020 (i) guilty;
- 2021 (ii) guilty with a mental illness; or
- 2022 (iii) no contest.
- 2023 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.
- 2025 (c) "Convicted" does not include:
- 2026 (i) a withdrawn or dismissed plea in abeyance;
- 2027 (ii) a diversion agreement; or
- 2028 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 2029 (6) "Department" means the Department of Public Safety.
- 2030 (7) "Division" means the Division of Juvenile Justice and Youth Services.
- 2031 (8) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- 2034 (9) "Indian Country" means:
- 2035

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- (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;
- 2038 (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and
- 2041 (c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.
- 2043 (10) "Jurisdiction" means any state, Indian Country, United States Territory, or property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.
- 2046 (11) "Kidnap offender" means an individual, other than a natural parent of the victim:
- 2047 (a) who has been convicted in this state of a violation of:
- 2048 (i) kidnapping under Subsection 76-5-301(2)(c) or (d);
- 2049 (ii) child kidnapping under Section 76-5-301.1;
- 2050 (iii) aggravated kidnapping under Section 76-5-302;
- 2051 (iv) human trafficking for labor under Section 76-5-308;
- 2052 (v) human smuggling under Section 76-5-308.3;
- 2053 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
- 2054 (vii) aggravated human trafficking under Section 76-5-310;
- 2055 (viii) aggravated human smuggling under Section 76-5-310.1;
- 2056 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or
- 2057 (x) attempting, soliciting, or conspiring to commit a felony offense listed in Subsections (11)(a)(i) through (ix);
- 2059 (b)
- . (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (11)(a); and
- 2062 (ii)
- . (A) who is a Utah resident; or
- 2063 (B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;
- 2066 (c)

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- . (i)
- . (A) who is required to register as a kidnap offender in another jurisdiction of original conviction;
- 2068 (B) who is required to register as a kidnap offender by a state, federal, or military court; or
- 2070 (C) who would be required to register as a kidnap offender if residing in the jurisdiction of the
conviction regardless of the date of the conviction or a previous registration requirement; and
- 2073 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender
intends to permanently reside in this state;
- 2075 (d)
- . (i)
- . (A) who is a nonresident regularly employed or working in this state; or
- 2076 (B) who is a student in this state; and
- 2077 (ii)
- . (A) who was convicted of one or more offenses listed in Subsection (11)(a) or any substantially
equivalent offense in another jurisdiction; or
- 2079 (B) who is required to register 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 (11)(a);
- 2082 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more
offenses listed in Subsection (11)(a); or
- 2084 (f)
- . (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (11)(a); and
- 2086 (ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that
offense if:
- 2088 (A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;
- 2090 (B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section
80-6-605 and the individual remains in the division's custody until 30 days before the individual's
25th birthday; or
- 2093 (C) the individual is moved from the division's custody to the custody of the department before
expiration of the division's jurisdiction over the individual.
- 2095 (12) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial
parent.
- 2097 (13) "Offender" means a child abuse offender, kidnap offender, or sex offender.

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- 2098 (14) "Online identifier" or "Internet identifier":
- 2099 (a) means any electronic mail, chat, instant messenger, social networking, or similar name used for
Internet communication; and
- 2101 (b) does not include date of birth, social security number, PIN number, or Internet passwords.
- 2103 (15) "Primary residence" means the location where the offender regularly resides, even if the offender
intends to move to another location or return to another location at a future date.
- 2106 (16) "Register" means to comply with the requirements of this chapter and administrative rules of the
department made under this chapter.
- 2108 (17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and
Registration website described in Section 77-41-110 and the information on the website.
- 2111 (18) "Secondary residence" means real property that the offender owns or has a financial interest in, or
a location where the offender stays overnight a total of 10 or more nights in a 12-month period when
not staying at the offender's primary residence.
- 2114 (19) "Sex offender" means an individual:
- 2115 (a) convicted in this state of:
- 2116 (i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;
- 2118 (ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 2119 (iii) human trafficking for sexual exploitation under Section 76-5-308.1;
- 2120 (iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);
- 2122 (v) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 2123 (vi) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;
- 2125 (vii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection
76-5-401(3)(b) or (c);
- 2127 (viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in Subsection
76-5-401.1(3);
- 2129 (ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 2130 (x) rape under Section 76-5-402;
- 2131 (xi) rape of a child under Section 76-5-402.1;
- 2132 (xii) object rape under Section 76-5-402.2;
- 2133 (xiii) object rape of a child under Section 76-5-402.3;
- 2134 (xiv) a felony violation of forcible sodomy under Section 76-5-403;

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- 2135 (xv) sodomy on a child under Section 76-5-403.1;
- 2136 (xvi) forcible sexual abuse under Section 76-5-404;
- 2137 (xvii) sexual abuse of a child under Section 76-5-404.1;
- 2138 (xviii) aggravated sexual abuse of a child under Section 76-5-404.3;
- 2139 (xix) aggravated sexual assault under Section 76-5-405;
- 2140 (xx) custodial sexual relations under Section 76-5-412, when the individual in custody is younger than
18 years old, if the offense is committed on or after May 10, 2011;
- 2143 (xxi) sexual exploitation of a minor under Section 76-5b-201;
- 2144 (xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 2145 (xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
- 2146 (xxiv) incest under Section 76-7-102;
- 2147 (xxv) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more
times;
- 2149 (xxvi) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four
or more times;
- 2151 (xxvii) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under
Section 76-9-702.1, that total four or more convictions;
- 2153 (xxviii) lewdness involving a child under Section 76-9-702.5;
- 2154 (xxix) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;
- 2156 (xxx) aggravated exploitation of prostitution under Section ~~[76-10-1306]~~ 76-5d-208; or
- 2158 (xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this Subsection (19)(a);
- 2160 (b)
- . (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in
another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the
offenses listed in Subsection (19)(a); and
- 2163 (ii)
- . (A) who is a Utah resident; or
- 2164 (B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless
of whether the offender intends to permanently reside in this state;
- 2167 (c)
- . (i)

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- . (A) who is required to register as a sex offender in another jurisdiction of original conviction;
- 2169 (B) who is required to register as a sex offender by a state, federal, or military court; or
- 2171 (C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or a previous registration requirement; and
- 2174 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;
- 2176 (d)
- . (i)
- . (A) who is a nonresident regularly employed or working in this state; or
- 2177 (B) who is a student in this state; and
- 2178 (ii)
- . (A) who was convicted of one or more offenses listed in Subsection (19)(a) or a substantially equivalent offense in another jurisdiction; or
- 2180 (B) who is required to register in the individual's jurisdiction of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (19)(a);
- 2183 (e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of one or more offenses listed in Subsection (19)(a); or
- 2185 (f)
- . (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (19)(a); and
- 2187 (ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:
- 2189 (A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;
- 2191 (B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or
- 2194 (C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.
- 2196 (20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.
- 2198 (21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

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- 2200 Section 30. Section **77-41-106** is amended to read:
- 2201 **77-41-106. (Effective 05/07/25)Offenses requiring lifetime registration.**
Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime
registration are:
- 2204 (1) an offense listed in Subsection 77-41-102(1), (11), or (19) if, at the time of the conviction for the
offense, the offender has previously been convicted of an offense listed in Subsection 77-41-102(1),
(11), or (19) or has previously been required to register as a sex offender, kidnap offender, or child
abuse offender for an offense committed as a juvenile;
- 2209 (2) a conviction for a following offense, including attempting, soliciting, or conspiring to commit a
felony of:
- 2211 (a) child kidnapping under Section 76-5-301.1, except if the offender is a natural parent of the victim;
- 2213 (b) rape under Section 76-5-402;
- 2214 (c) rape of a child under Section 76-5-402.1;
- 2215 (d) object rape under Section 76-5-402.2;
- 2216 (e) object rape of a child under Section 76-5-402.3;
- 2217 (f) sodomy on a child under Section 76-5-403.1;
- 2218 (g) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 2219 (h) aggravated sexual assault under Section 76-5-405;
- 2220 (3) human trafficking for sexual exploitation under Section 76-5-308.1;
- 2221 (4) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);
- 2222 (5) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 2223 (6) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;
- 2224 (7) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the
victim;
- 2226 (8) forcible sodomy under Section 76-5-403;
- 2227 (9) sexual abuse of a child under Section 76-5-404.1;
- 2228 (10) sexual exploitation of a minor under Section 76-5b-201;
- 2229 (11) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 2230 (12) aggravated sexual extortion under Subsection 76-5b-204(2)(b); [ø†]
- 2231 (13) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208, on or after May 10,
2011; or

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- 2233 (14) a felony violation of enticing a minor under Section 76-4-401 if the offender enticed the minor to
engage in sexual activity that is one of the offenses described in Subsections (2) through (13).
- 2236 Section 31. Section **78B-6-1101** is amended to read:
- 2237 **78B-6-1101. (Effective 05/07/25)Definitions -- Nuisance -- Right of action -- Agriculture
operations.**
- 2239 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction
to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A
nuisance may be the subject of an action.
- 2242 (2) A nuisance may include the following:
- 2243 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- 2244 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
- 2245 (c) criminal activity committed in concert with three or more persons as provided in Section
76-3-203.1;
- 2247 (d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal
street gang as defined in Section 76-9-802;
- 2249 (e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a
criminal street gang as defined in Section 76-9-802;
- 2251 (f) party houses that frequently create conditions defined in Subsection (1); and
- 2252 (g) prostitution as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~] Title 76, Chapter 5d,
Prostitution.
- 2254 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents,
leases, or owns, from another residential or commercial unit and the smoke:
- 2256 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- 2257 (b) creates any of the conditions under Subsection (1).
- 2258 (4) Subsection (3) does not apply to:
- 2259 (a) a residential rental unit available for temporary rental, such as for a vacation, or available for only
30 or fewer days at a time; or
- 2261 (b) a hotel or motel room.
- 2262 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section
57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.
- 2265

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- (6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.
- 2267 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.
- 2269 (8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.
- 2271 (9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.
- 2276 Section 32. Section **78B-6-1107** is amended to read:
- 2277 **78B-6-1107. (Effective 05/07/25)Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 2280 (1) Every building or place is a nuisance where:
- 2281 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;
- 2284 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);
- 2287 (c) criminal activity is committed in concert with three or more persons as provided in Section 76-3-203.1;
- 2289 (d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
- 2291 (e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
- 2293 (f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);
- 2295 (g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~] Title 76, Chapter 5d, Prostitution; and

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- 2298 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.
- 2299 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.
- 2301 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).
- 2303 Section 33. Section **78B-9-104** is amended to read:
- 2304 **78B-9-104. (Effective 05/07/25)Grounds for relief -- Retroactivity of rule.**
- 2305 (1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:
- 2309 (a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;
- 2311 (b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;
- 2314 (c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;
- 2316 (d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;
- 2318 (e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:
- 2320 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;
- 2324 (ii) the material evidence is not merely cumulative of evidence that was known;
- 2325 (iii) the material evidence is not merely impeachment evidence; and
- 2326 (iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;
- 2329 (f) the petitioner can prove that:

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- 2330 (i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the petitioner's conviction was not preserved in accordance with Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;
- 2333 (ii)
- . (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or
- 2335 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and
- 2340 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;
- 2344 (g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:
- 2347 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or
- 2349 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or
- 2351 (h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:
- 2353 (i) Section 58-37-8, possession of a controlled substance;
- 2354 (ii) Section [~~76-10-1304~~] 76-5d-206, aiding prostitution;
- 2355 (iii) Section 76-6-206, criminal trespass;
- 2356 (iv) Section 76-6-413, theft;
- 2357 (v) Section 76-6-502, possession of forged writing or device for writing;
- 2358 (vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;
- 2359 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;
- 2361 (viii) Section 76-9-702, lewdness;
- 2362 (ix) Section [~~76-10-1302~~,] 76-5d-202, engaging in prostitution; or
- 2363

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- (x) Section [~~76-10-1313~~] 76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation.
- 2365 (2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:
- 2368 (a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or
- 2370 (b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.
- 2374 (3)
- . (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.
- 2378 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.
- 2383 Section 34. Section **80-2-301** is amended to read:
- 2384 **80-2-301. (Effective 05/07/25)Division responsibilities.**
- 2385 (1) The division is the child, youth, and family services authority of the state.
- 2386 (2) The division shall:
- 2387 (a) administer services to minors and families, including:
- 2388 (i) child welfare services;
- 2389 (ii) domestic violence services; and
- 2390 (iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;
- 2392 (b) provide the following services:
- 2393 (i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

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- 2396 (ii) non-custodial and in-home services in accordance with Section 80-2-306, including:
- 2398 (A) services designed to prevent family break-up; and
- 2399 (B) family preservation services;
- 2400 (iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 2403 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;
- 2405 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 2407 (vi) domestic violence services, in accordance with the requirements of federal law;
- 2408 (vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 2411 (viii) substitute care for dependent, abused, and neglected children;
- 2412 (ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections ~~[76-10-1302]~~ 76-5d-202 and ~~[76-10-1313]~~ 76-5d-209; and
- 2416 (x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;
- 2419 (c) establish standards for all:
- 2420 (i) contract providers of out-of-home care for minors and families;
- 2421 (ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and
- 2423 (iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);
- 2425 (d) have authority to:
- 2426 (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405;
- 2428 (ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

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- 2431 (iii) approve an individual to provide short-term relief care to a foster parent if the individual:
- 2433 (A) provides the relief care for less than six consecutive nights;
- 2434 (B) provides the relief care in the short-term relief care provider's home;
- 2435 (C) is direct access qualified, as that term is defined in Section 26B-2-120; and
- 2436 (D) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;
- 2438 (e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;
- 2441 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;
- 2445 (g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;
- 2448 (h) compile relevant information, statistics, and reports on child and family service matters in the state;
- 2450 (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;
- 2453 (j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;
- 2455 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;
- 2457 (l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;
- 2461 (m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:
- 2463 (i) have a permanency goal of adoption; or
- 2464 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;
- 2466

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- (n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;
- 2469 (o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:
 - 2471 (i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;
 - 2473 (ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and
 - 2475 (iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i);
- 2477 (p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and
- 2481 (q) perform other duties and functions required by law.
- 2482 (3)
 - . (a) The division may provide, directly or through contract, services that include the following:
 - 2484 (i) adoptions;
 - 2485 (ii) day-care services;
 - 2486 (iii) out-of-home placements for minors;
 - 2487 (iv) health-related services;
 - 2488 (v) homemaking services;
 - 2489 (vi) home management services;
 - 2490 (vii) protective services for minors;
 - 2491 (viii) transportation services; or
 - 2492 (ix) domestic violence services.
 - 2493 (b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - 2496 (c)
 - . (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

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- 2499 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.
- 2500 (4)
- . (a) The division may:
- 2501 (i) receive gifts, grants, devises, and donations;
- 2502 (ii) encourage merchants and service providers to:
- 2503 (A) donate goods or services; or
- 2504 (B) provide goods or services at a nominal price or below cost;
- 2505 (iii) distribute goods to applicants or consumers of division services free or for a nominal charge
and tax free; and
- 2507 (iv) appeal to the public for funds to meet needs of applicants or consumers of division services that
are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for
minors, and requests for household appliances and home repairs.
- 2511 (b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant,
devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by
the donor.
- 2514 (5)
- . (a) In carrying out the requirements of Subsection (2)(f), the division shall:
- 2515 (i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth Services, and with
all public and private licensed child welfare agencies and institutions to develop and administer
a broad range of services and support;
- 2518 (ii) take the initiative in all matters involving the protection of abused or neglected children, if
adequate provisions have not been made or are not likely to be made; and
- 2521 (iii) make expenditures necessary for the care and protection of the children described in Subsection
(5)(a)(ii), within the division's budget.
- 2523 (b) If an individual is referred to a local substance abuse authority or other private or public resource for
court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all
costs of the tests unless:
- 2526 (i) the cost of the drug screening is specifically funded or provided for by other federal or state
programs;
- 2528 (ii) the individual is a participant in a drug court; or
- 2529 (iii) the court finds that the individual is an indigent individual.

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- 2530 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, the division is not required to investigate domestic violence in the
presence of a child, as described in Section 76-5-114.
- 2533 (7)
- . (a) Except as provided in Subsection (7)(b), the division may not:
- 2534 (i) require a parent who has a child in the custody of the division to pay for some or all of the cost
of any drug testing the parent is required to undergo; or
- 2536 (ii) refer an individual who is receiving services from the division for drug testing by means of a
hair, fingernail, or saliva test that is administered to detect the presence of drugs.
- 2539 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services
from the division for drug testing by means of a saliva test if:
- 2541 (i) the individual consents to drug testing by means of a saliva test; or
- 2542 (ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the
individual to complete drug testing by means of a saliva test.
- 2544 Section 35. Section **80-6-1002** is amended to read:
- 2545 **80-6-1002. (Effective 05/07/25) Vacatur of an adjudication.**
- 2546 (1)
- . (a) An individual who has been adjudicated for an offense by the juvenile court may petition the
juvenile court for vacatur of the adjudication if the adjudication was for a violation of:
- 2549 (i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking
for labor while subject to force, fraud, or coercion;
- 2551 (ii) Section [~~76-10-1302~~], 76-5d-202, engaging in prostitution;
- 2552 (iii) Section [~~76-10-1304~~] 76-5d-206, aiding prostitution; or
- 2553 (iv) Section [~~76-10-1313~~] 76-5d-209, sexual solicitation by an actor offering to engage in sexual
activity for compensation.
- 2555 (b) The petitioner shall include in the petition the relevant juvenile court incident number and any
agencies known or alleged to have any records related to the offense for which vacatur is being
sought.
- 2558 (c) The petitioner shall include with the petition the original criminal history report obtained from the
Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.
- 2561 (d) The petitioner shall send a copy of the petition to the prosecuting attorney.

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- 2562 (2)
- . (a) Upon the filing of a petition, the juvenile court shall:
- 2563 (i) set a date for a hearing; and
- 2564 (ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the
prosecuting attorney and any affected agency identified in the juvenile record:
- 2567 (A) that a petition has been filed; and
- 2568 (B) of the date of the hearing.
- 2569 (b)
- . (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for
vacatur.
- 2571 (ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice
of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or
authorized representative if the victim is a child or an individual who is incapacitated or deceased,
submits a written and signed request for notice to the court in the judicial district in which the crime
occurred or judgment was entered.
- 2577 (iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.
- 2579 (c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have
relevant information about the petitioner may testify.
- 2581 (3)
- . (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human
trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the
petitioner acted subject to force, fraud, or coercion at the time of the conduct giving rise to the
adjudication.
- 2585 (b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to
force, fraud, or coercion at the time of the conduct giving rise to the adjudication, the juvenile court
shall grant vacatur of the adjudication.
- 2588 (c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the
adjudication.
- 2590 (4) If the petition seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii)
through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the
petitioner acted as a purchaser of any sexual activity.

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- 2593 (5)
- . (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.
- 2598 (b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:
- 2600 (i) Section 76-5-202, aggravated murder; or
- 2601 (ii) Section 76-5-203, murder.
- 2602 (6)
- . (a) The petitioner shall be responsible for service of the vacatur and expungement order to all affected state, county, and local entities, agencies, and officials.
- 2604 (b) To avoid destruction or expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.
- 2608 (7)
- . (a) Upon entry of a vacatur and expungement order under this section:
- 2609 (i) the proceedings in the incident identified in the petition are considered never to have occurred;
- and
- 2611 (ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.
- 2613 (b) Upon petition, any record expunged under this section may only be released to or viewed by:
- 2615 (i) the individual who is the subject of the record; or
- 2616 (ii) a person named in the petition of vacatur.
- 2617 **Section 36. Repealer.**
- This Bill Repeals:
- 2618 This bill repeals:
- 2619 **Section 76-10-1308, Prosecution.**
- 2620 **Section 76-10-1310, Definitions.**
- 2621 **Section 37. Effective date.**
- This bill takes effect on May 7, 2025.

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12-17-24 3:34 PM