

HB0038S02 compared with HB0038

{Omitted text} shows text that was in HB0038 but was omitted in HB0038S02

inserted text shows text that was not in HB0038 but was inserted into HB0038S02

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1 Criminal Offenses Modifications

. 2025 GENERAL SESSION

. STATE OF UTAH

. Chief Sponsor: Ryan D. Wilcox

. Senate Sponsor:

2

3 LONG TITLE

4 General Description:

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

6 Highlighted Provisions:

7 This bill:

- 11 ▶ amends the enhancement for offenses committed in concert with three or more persons or in relation to a criminal street gang;
- 13 ▶ amends certain theft {and} , retail theft , and prostitution sentencing enhancements to include prior convictions in other state, federal, or military courts;
- 15 ▶ clarifies that in sentencing for an offense related to retail theft, the value of the stolen item is determined by the item's retail value;
- 14 ▶ amends the offense of sexual extortion;
- 15 ▶ amends the definition of "financial transaction card" in Section 76-6-506;
- 16 ▶ adds offenses that may be charged as part of a pattern of unlawful activity;
- 17 ▶ increases the fine for an individual who is convicted of the offense of patronizing a prostitute;

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- 17 ▶ increases penalties for an individual who:
- 18 • acts to bring a minor into a criminal street gang in certain circumstances; and
- 19 • acts to intimidate a minor into remaining in a criminal street gang in certain circumstances;

{and}

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

- 21 ▶ makes technical and conforming changes.

27 Money Appropriated in this Bill:

28 None

29 This bill provides coordination clauses.

32 AMENDS:

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

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

35 **76-6-401** , as last amended by Laws of Utah 2021, Chapter 57 , as last amended by Laws of Utah 2021, Chapter 57

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

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

40 **76-6-404.7** , as last amended by Laws of Utah 2023, Chapter 111 , as last amended by Laws of Utah 2023, Chapter 111

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

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

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- 45 **76-6-407** , as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination
Clause, Laws of Utah 2023, Chapter 407 , as last amended by Laws of Utah 2023, Chapter 111 and
last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 47 **76-6-408** , as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination
Clause, Laws of Utah 2023, Chapter 407 , as last amended by Laws of Utah 2023, Chapter 111 and
last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 49 **76-6-409** , as last amended by Laws of Utah 2023, Chapter 111 , as last amended by Laws of Utah
2023, Chapter 111
- 50 **76-6-409.3** , as last amended by Laws of Utah 2023, Chapter 111 , as last amended by Laws of Utah
2023, Chapter 111
- 51 **76-6-410** , as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination
Clause, Laws of Utah 2023, Chapter 407 , as last amended by Laws of Utah 2023, Chapter 111 and
last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 53 **76-6-506 , as last amended by Laws of Utah 2023, Chapter 111 , as last amended by Laws of
Utah 2023, Chapter 111**
-
- 54 **76-6-602** , as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination
Clause, Laws of Utah 2023, Chapter 407 , as last amended by Laws of Utah 2023, Chapter 111 and
last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
- 56 **76-6-608** , as last amended by Laws of Utah 2023, Chapter 111 , as last amended by Laws of Utah
2023, Chapter 111
- 57 **76-9-802** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96
- 58 **76-9-803** , as enacted by Laws of Utah 2008, Chapter 15 , as enacted by Laws of Utah 2008,
Chapter 15
- 59 **76-10-1302 , as last amended by Laws of Utah 2023, Chapter 111 , as last amended by Laws
of Utah 2023, Chapter 111**
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- 60 **76-10-1303 , as last amended by Laws of Utah 2024, Chapter 140 , as last amended by Laws
of Utah 2024, Chapter 140**
-
- 61 **76-10-1304 , as last amended by Laws of Utah 2018, Chapter 308 , as last amended by Laws
of Utah 2018, Chapter 308**
-
- 62

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76-10-1602 , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah 2024, Chapter 96

63 78B-6-1101 , as last amended by Laws of Utah 2021, Chapter 207 , as last amended by Laws of Utah 2021, Chapter 207

64 78B-6-1107 , as last amended by Laws of Utah 2021, Chapter 207 , as last amended by Laws of Utah 2021, Chapter 207

65 ENACTS:

66 76-9-803.1 , Utah Code Annotated 1953 , Utah Code Annotated 1953

67 76-9-803.2 , Utah Code Annotated 1953 , Utah Code Annotated 1953

68 76-9-803.3 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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

70

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

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

73 **76-3-203.1. Enhanced penalty for offenses committed in or for a certain group.**

62 (1) As used in this section:

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

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

65 (i) the [~~defendant~~] actor was aided or encouraged by [~~at least three other persons~~] {another individual}
at least two other individuals in committing [~~the~~] an offense and was aware of this aid or
encouragement; and

68 (ii) [~~each of the other persons~~] each of the other {individual} individuals:

69 (A) was physically present; and

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

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

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

75 (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.

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

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- 79 (i) has as one of the group's purposes the commission of criminal offenses; and
80 (ii) whose members collectively engage in committing criminal offenses for the financial or other
material benefit of the members or group.
- 82 (2) [A person] An actor ~~{ }~~ An actor who commits [any offense in accordance with this section] an
offense listed in Subsection (5) is subject to an enhanced penalty for the offense as provided in
Subsection (4) ~~[-(5), or (6)]~~ if the trier of fact finds beyond a reasonable doubt that the [person] actor
acted:
- 86 (a) in concert with ~~[three]~~ two or more [persons] individuals;
- 87 (b) for the benefit of, at the direction of, or in association with ~~[any]~~ a criminal street gang [as defined
in Section 76-9-802] or other organized criminal group; or
- 89 (c) to gain recognition, acceptance, membership, or increased status with a criminal street gang [as
defined in Section 76-9-802] or other organized criminal group.
- 91 (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] actor is subject to the enhanced
penalties provided under this section.
- 94 ~~[(4)~~
. (a) ~~For an offense listed in Subsection (4)(b), a person may be charged as follows:]~~
95 ~~[(i) for a class B misdemeanor, as a class A misdemeanor; and]~~
96 ~~[(ii) for a class A misdemeanor, as a third degree felony.]~~
- 97 ~~[(b) The following offenses are subject to Subsection (4)(a):]~~
98 ~~[(i) criminal mischief as described in Section 76-6-106;]~~
99 ~~[(ii) property damage or destruction as described in Section 76-6-106.1; and]~~
100 ~~[(iii) defacement by graffiti as described in Section 76-6-107.]~~
- 101 ~~[(5)~~
. (a) ~~For an offense listed in Subsection (5)(b), a person may be charged as follows:]~~
102 ~~[(i) for a class B misdemeanor, as a class A misdemeanor;]~~
103 ~~[(ii) for a class A misdemeanor, as a third degree felony; and]~~
104 ~~[(iii) for a third degree felony, as a second degree felony.]~~
105 ~~[(b) The following offenses are subject to Subsection (5)(a):]~~
106 ~~[(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);]~~
107

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- 112 [(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing
113 Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]
- 110 [(iii) tampering with a witness under Section 76-8-508;]
- 111 [(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;]
- 113 [(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 114 [(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;]
- 115 [(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]
- 116 [(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.]
- 117 [(6)] (4)
- 118 . [(a)] For an offense listed in Subsection [(6)(b)] (5), [a person] an actor ~~{ }~~ an actor may be charged
119 as follows:
- 119 [(i)] (a) for a class B misdemeanor, as a class A misdemeanor;
- 120 [(ii)] (b) for a class A misdemeanor, as a third degree felony;
- 121 [(iii)] (c) for a third degree felony, as a second degree felony; and
- 122 [(iv)] (d) for a second degree felony, as a first degree felony.
- 123 [(b)] (5) The ~~[following offenses are subject to Subsection (6)(a)]~~ offenses referred to in Subsection (2)
124 are:
- 125 (a) criminal solicitation of a minor as described in Section 76-4-205;
- 126 [(i)] (b) ~~[assault and related offenses under]~~ an offense described in Chapter 5, Part 1, Assault and
127 Related Offenses;
- 128 [(ii)] (c) ~~[any criminal homicide offense under]~~ an offense described in ~~{ }~~ an offense described in
129 }Chapter 5, Part 2, Criminal Homicide;
- 130 [(iii)] (d) ~~[kidnapping and related offenses under]~~ a felony offense described in ~~{ }~~ an offense
131 described in }Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 132 [(iv)] (e) ~~[any felony sexual offense under]~~ a felony offense described in ~~{ }~~ a felony offense
133 described in }Chapter 5, Part 4, Sexual Offenses;
- 134 [(v) sexual exploitation of a minor as defined in Section 76-5b-201;]
- 135 [(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;]
- 136 ~~{ (f) { a felony offense described in Chapter 5b, Part 2, Sexual Exploitation; } }~~
- 137 ~~{ (g) } (f) an offense described in Chapter 6, Part 1, Property Destruction;~~
- 138 [(vii)] ~~{ (h) } (g) robbery as described in Section 76-6-202;~~

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- 139 ~~{(i)} (h) [-and] aggravated robbery [under Chapter 6, Part 3, Robbery { } as described in Section 76-6-203};~~
- 141 ~~{(j) burglary as described in Subsection 76-6-202(3)(b);}~~
- 142 ~~{(k) aggravated burglary as described in Section 76-6-203;}~~
- 143 ~~{(l) an offense described in Chapter 6, Part 4, Theft;}~~
- 144 ~~{(m) a felony offense described in Chapter 6, Part 5, Fraud;}~~
- 145 ~~{(n) an offense described in Chapter 6, Part 6, Retail Theft;}~~
- 146 ~~{(o) an offense described in Chapter 6, Part 11, Identity Fraud Act;}~~
- 147 ~~{(p) an offense described in Chapter 8, Part 5, Falsification in Official Matters;}~~
- 148 ~~{(q) a felony offense described in Chapter 10, Part 3, Explosives;}~~
- 149 ~~{(r) {an offense described in Chapter 10, Part 4, Weapons of Mass Destruction;}~~
- 150 ~~{(s) {an offense described in Chapter 10, Part 5, Weapons; } { } -and]~~
- 151 ~~{(t) gambling fraud as described in Section 76-10-1103;}~~
- 152 ~~{(u) possessing a gambling device or record as described in Section 76-10-1105;}~~
- 153 ~~{(v) fringe gaming devices as described in Section 76-10-1110;}~~
- 154 ~~{(w) a felony violation of aiding prostitution as described in Section 76-10-1304;}~~
- 155 ~~{(x) {exploiting prostitution as described in Section 76-10-1305;}~~
- 156 ~~{(viii)} (y) as described in Section 76-6-203;~~
- 153 (i) burglary as described in Subsection 76-6-202(3)(b);
- 154 (j) aggravated burglary as described in Section 76-6-203;
- 155 (k) an offense described in Chapter 6, Part 4, Theft;
- 156 (l) an offense described in Chapter 6, Part 6, Retail Theft;
- 157 (m) an offense described in Chapter 6, Part 11, Identity Fraud Act;
- 158 (n) an offense described in Chapter 10, Part 5, Weapons;
- 159 (o) a felony violation of aiding prostitution as described in Section 76-10-1304;
- 160 (p) exploiting prostitution as described in Section 76-10-1305;
- 161 [(viii)] (q) aggravated exploitation of prostitution under Section 76-10-1306[-];
- 157 ~~{(z) {an offense described in Chapter 10, Part 16, Pattern of Unlawful Activity Act; } }~~
- 158 ~~{(aa)} (r) communications fraud as described in Section 76-10-1801;~~
- 159 ~~{(bb)} (s) an offense described in Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;~~

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- 161 ~~{(ee)}~~ (t) burglary of a research facility as described in Section 76-10-2002; and
162 ~~{(dd)}~~ (u) transporting or harboring aliens as described in Section 76-10-2901.
163 ~~[(7)]~~ (6) ~~[The]~~ A court may, if not otherwise prohibited from doing so by another section of the code,
suspend a sentence imposed under [Subsection (4), (5), or (6) may be suspended] this section and
place the [individual placed] actor on probation[for the higher level of offense].
167 ~~[(8)]~~ (7) It is not a bar to imposing the enhanced penalties under this section that the
~~[persons]~~ individuals with whom the actor is alleged to have acted in concert are not identified,
apprehended, charged, or convicted, or that any of those ~~[persons]~~ individuals are charged with or
convicted of a different or lesser offense.

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

176 **76-5b-204. Sexual extortion -- Penalties.**

177 (1)

. (a) As used in this section:

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

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

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

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

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

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

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

188 (2)

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

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

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

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

195 (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in
simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or

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other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

- 199 (A) to the victim's person, property, or reputation; or
200 (B) to distribute an intimate image or video of the victim; or
201 (iii) with intent to obtain a thing of value from a victim communicates, by any means, a threat to
distribute an intimate image or video of the victim.
- 203 (b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in
Subsection (2)(a), any of the following circumstances have been charged and admitted or found true
in the action for the offense:
- 206 (i) the victim is a child or vulnerable adult;
207 (ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace,
fraud, or threat of physical harm, or was committed during the course of a kidnapping;
210 (iii) ~~the actor caused~~ the victim suffered bodily injury or severe psychological injury ~~to the victim~~
during, or as a result of, the offense;
212 (iv) the actor was a stranger to the victim, or became a friend of the victim, for the purpose of
committing the offense;
214 (v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;
216 (vi) the actor occupied a position of special trust in relation to the victim;
217 (vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the
victim with any other individual, or sexual performance by the victim before any other individual,
human trafficking, or human smuggling; or
220 (viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by
any part or parts of the human body, or by any other object.
- 222 (3)
. (a) If the actor is an adult:
- 223 (i) ~~[A]~~ a violation of Subsection (2)(a) is a third degree felony.
224 (ii) ~~[A]~~ a violation of Subsection ~~[(2)(b)]~~ (2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in which the
victim is an adult is a second degree felony.
226 (iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first degree felony.
228 ~~[(iii)]~~ (iv) ~~[A]~~ a violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is
a first degree felony.

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- 230 (b) If the actor is a child:
- 231 (i) [A] a violation of Subsection (2)(a) is a class A misdemeanor.
- 232 (ii) [A] a violation of Subsection (2)(b) is a third degree felony if there is more than a two-year age gap
between the actor and the victim.
- 234 (c) An actor commits a separate offense under this section:
- 235 (i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and
- 236 (ii) for each separate time the actor subjects a victim to the offense outlined Subsection (2)(a).
- 238 (d) This section does not preclude an actor from being charged and convicted of a separate criminal act
if the actor commits the separate criminal act while the individual violates or attempts to violate this
section.
- 241 (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under
this section related to content provided by a user of the interactive computer service.

244 Section 3. Section 76-6-401 is amended to read:

245 **76-6-401. Definitions.**

As used in this part:

- 247 (1) "Deception" occurs when a person intentionally:
- 248 (a) creates or confirms by words or conduct an impression of law or fact that is false and that the actor
does not believe to be true and that is likely to affect the judgment of another in the transaction;
- 251 (b) fails to correct a false impression of law or fact that the actor previously created or confirmed by
words or conduct that is likely to affect the judgment of another and that the actor does not now
believe to be true;
- 254 (c) prevents another person from acquiring information likely to affect the person's judgment in the
transaction;
- 256 (d) sells or otherwise transfers or encumbers property without disclosing a lien, security interest,
adverse claim, or other legal impediment to the enjoyment of the property, regardless of whether the
lien, security interest, claim, or impediment is valid or is a matter of official record; or
- 260 (e) promises performance that is likely to affect the judgment of another in the transaction, which
performance the actor does not intend to perform or knows will not be performed, except that failure
to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof
that the actor did not intend to perform or knew the promise would not be performed.
- 265 (2) "Gift card" means a card, code, or device that is:

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- 266 (a) issued to a consumer on a prepaid basis in a specified amount, regardless of whether that amount
may be increased or reloaded in exchange for payment;
- 268 (b) activated or inactivated; and
- 269 (c) redeemable upon presentation:
- 270 (i) by a consumer at a single merchant or group of affiliated merchants; or
- 271 (ii) at multiple unaffiliated merchants for goods or services within the payment card network.
- 273 ~~[(2)]~~ (3) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.
- 275 ~~[(3)]~~ (4) "Obtain" means, in relation to property, to bring about a transfer of possession or of some other
legally recognized interest in property, whether to the obtainer or another; in relation to labor or
services, to secure performance thereof; and in relation to a trade secret, to make any facsimile,
replica, photograph, or other reproduction.
- 279 ~~[(4)]~~ (5) "Obtain or exercise unauthorized control" means conduct originally defined or known
as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, or
embezzlement.
- 282 ~~[(5)]~~ (6)
- . (a) "Property" means anything of value[;] .
- 283 (b) "Property" includes:
- 284 (i) ~~[including]~~ real estate[;] ;
- 285 (ii) [-]tangible and intangible personal property[;] ;
- 286 (iii) [-]captured or domestic animals and birds[;] ;
- 287 (iv) [-]written instruments or other writings representing or embodying rights concerning real or
personal property, labor, services, or otherwise containing anything of value to the owner[;] ;
- 290 (v) [-]commodities of a public utility nature such as telecommunications, gas, electricity, steam, or
water, and trade secrets, meaning the whole or any portion of any scientific or technical information,
design, process, procedure, formula, or invention which the owner intends to be available only to
persons selected by the owner[;] ; and
- 295 (vi) a gift card.
- 296 ~~[(6)]~~ (7) "Purpose to deprive" means to have the conscious object:
- 297 (a) to withhold property permanently or for so extended a period or to use under such circumstances
that a substantial portion of its economic value, or of the use and benefit thereof, would be lost;
- 300 (b) to restore the property only upon payment of a reward or other compensation; or

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- 301 (c) to dispose of the property under circumstances that make it unlikely that the owner will recover it.
- 302 Section 4. Section **76-6-404** is amended to read:
- 303
- 304 **76-6-404. Theft -- Elements.**
- 173 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 174 (2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's
- 175 property with a purpose to deprive the person of the person's property.
- 176 (3) A violation of Subsection (2) is:
- 177 (a) a second degree felony if the:
- 178 (i) value of the property is or exceeds \$5,000;
- 179 (ii) property stolen is a firearm or an operable motor vehicle; or
- 180 (iii) property is stolen from the person of another;
- 181 (b) a third degree felony if:
- 182 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 183 (ii) the property is:
- 184 (A) a catalytic converter as defined under Section 76-6-1402; or
- 185 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less
- 186 than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead
- 187 battery;
- 188 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any
- 189 of the following offenses, if each prior offense was committed within 10 years before the date of the
- 190 current conviction or the date of the offense upon which the current conviction is based and at least
- 191 one of those convictions is for a class A misdemeanor:
- 192 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 193 (B) any offense under Part 5, Fraud;[-~~or~~]
- 194 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 195 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
- 196 equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- 197 (iv)
- 198 (A) the value of property is or exceeds \$500 but is less than \$1,500;
- 200 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
- and

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- 202 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 204 (v) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the prior offense was committed within
10 years before the date of the current conviction or the date of the offense upon which the current
conviction is based;
- 208 (c) a class A misdemeanor if:
- 209 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 210 (ii)
- . (A) the value of property is less than \$500;
- 211 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 213 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 215 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A)
through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was committed within 10 years before the date of
the current conviction or the date of the offense upon which the current conviction is based; or
- 219 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an
offense under Subsection (3)(c).
- 353 Section 5. Section **76-6-404.5** is amended to read:
- 354 **76-6-404.5. Unauthorized possession of property.**
- 223 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 224 (2) An actor commits unauthorized possession of property if the actor obtains or exercises unauthorized
control over another person's property, without the consent of the property's owner or legal
custodian, and with the intent to temporarily appropriate, possess, or use the property or to
temporarily deprive the property's owner or legal custodian of possession of the property.
- 229 (3) A violation of Subsection (2) is:
- 230 (a) a third degree felony if:
- 231 (i) the value of the property is or exceeds \$5,000;
- 232 (ii) the property is a firearm or an operable motor vehicle; or
- 233 (iii) the property is taken from the person of another;

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- 234 (b) a class A misdemeanor if:
- 235 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 236 (ii) the property is:
- 237 (A) a catalytic converter as defined under Section 76-6-1402; or
- 238 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
- 241 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
- 246 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 247 (B) any offense under Part 5, Fraud;~~[-or]~~
- 248 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 249 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- 252 (iv)
- . (A) the value of property is or exceeds \$500 but is less than \$1,500;
- 253 (B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and
- 255 (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 257 (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- 261 (c) a class B misdemeanor if:
- 262 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
- 263 (ii)
- . (A) the value of property is less than \$500;
- 264

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- (B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and
- 266 (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 268 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- 272 (d) a class C misdemeanor if the value of the property is less than \$500 and the unauthorized possession of property is not an offense under Subsection (3)(c).
- 274 (4) Unauthorized possession of property is a lesser included offense of the offense of theft under Section 76-6-404.
- 276 (5) The consent of the owner or legal custodian of the property to the property's control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

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

412 **76-6-404.7. Theft of motor vehicle fuel.**

281 (1)

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

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

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

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

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

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

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

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

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

296 (b) a third degree felony if:

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

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- 298 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been twice before convicted
of any of the following offenses, if each prior offense was committed within 10 years before the date
of the current conviction or the date of the offense upon which the current conviction is based and at
least one of those convictions is for a class A misdemeanor:
- 303 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 304 (B) any offense under Part 5, Fraud;~~[-or]~~
- 305 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 306 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- 309 (iii)
- . (A) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 311 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 313 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 315 (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C);~~] (D), if the prior offense was committed within
10 years before the date of the current conviction or the date of the offense upon which the current
conviction is based;
- 319 (c) a class A misdemeanor if:
- 320 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 321 (ii)
- . (A) the value of the motor vehicle fuel is less than \$500;
- 322 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 324 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 326 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A)
through [~~(3)(b)(ii)(C);~~] (D), if each prior offense was committed within 10 years before the date of
the current conviction or the date of the offense upon which the current conviction is based; or
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(d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the theft is not an offense under Subsection (3)(c).

332 (4)

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

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

469 Section 7. Section **76-6-405** is amended to read:

470 **76-6-405. Theft by deception.**

339 (1)

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

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

342 (2)

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

344 (i) by deception; and

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

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

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

349 (a) a second degree felony if the:

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

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

352 (b) a third degree felony if:

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

354 (ii) the property:

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

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

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- 359 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any
of the following offenses, if each prior offense was committed within 10 years before the date of the
current conviction or the date of the offense upon which the current conviction is based and at least
one of those convictions is for a class A misdemeanor:
- 364 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 365 (B) any offense under Part 5, Fraud;~~[-or]~~
- 366 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 367 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- 370 (iv)
- . (A) the value of property is or exceeds \$500 but is less than \$1,500;
- 371 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 373 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 375 (v) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within
10 years before the date of the current conviction or the date of the offense upon which the current
conviction is based;
- 379 (c) a class A misdemeanor if:
- 380 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 381 (ii)
- . (A) the value of property is less than \$500;
- 382 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 384 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 386 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A)
through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was committed within 10 years before the date of
the current conviction or the date of the offense upon which the current conviction is based; or
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(d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

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

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

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

527 Section 8. Section **76-6-406** is amended to read:

528 **76-6-406. Theft by extortion.**

397 (1)

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

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

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

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

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

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

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

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

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

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

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

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

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

422 (a) a second degree felony if the:

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

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- 424 (ii) property stolen is a firearm or an operable motor vehicle; or
425 (iii) property is stolen from the person of another;
426 (b) a third degree felony if:
427 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
428 (ii) the property is:
429 (A) a catalytic converter as defined under Section 76-6-1402; or
430 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less
than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead
battery;
433 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any
of the following offenses, if each prior offense was committed within 10 years before the date of the
current conviction or the date of the offense upon which the current conviction is based and at least
one of those convictions is for a class A misdemeanor:
438 (A) any theft, any robbery, or any burglary with intent to commit theft;
439 (B) any offense under Part 5, Fraud;~~[-or]~~
440 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
441 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
444 (iv)
. (A) the value of property is or exceeds \$500 but is less than \$1,500;
445 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
447 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
449 (v) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within
10 years before the date of the current conviction or the date of the offense upon which the current
conviction is based;
453 (c) a class A misdemeanor if:
454 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
455 (ii)

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- . (A) the value of property is less than \$500;
- 456 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 458 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 460 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A)
through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was committed within 10 years before the date of
the current conviction or the date of the offense upon which the current conviction is based; or
- 464 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an
offense under Subsection (3)(c).
- 466 (4)
- . (a) A person who is adversely impacted by the conduct prohibited in Subsection (2) may bring a civil
action for equitable relief and damages.
- 468 (b) In accordance with Section 78B-2-305, a person who brings an action under Subsection (4)(a) shall
commence the action within three years after the day on which the cause of action arises.
- 603 Section 9. Section ~~76-6-407~~ is amended to read:
- 604 **76-6-407. Theft of lost, mislaid, or mistakenly delivered property.**
- 473 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 474 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:
- 475 (a) obtains another person's property and knows the property to have been lost or mislaid, or to have
been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the
property, without taking reasonable measures to return the property to the owner; and
- 479 (b) has the purpose to deprive the owner of the property when the actor obtains the property or at any
time before taking the measures described in Subsection (2)(a).
- 481 (3) A violation of Subsection (2) is:
- 482 (a) a second degree felony if the:
- 483 (i) value of the property is or exceeds \$5,000;
- 484 (ii) property stolen is a firearm or an operable motor vehicle; or
- 485 (iii) property is stolen from the person of another;
- 486 (b) a third degree felony if:
- 487 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

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- 488 (ii) the property is:
- 489 (A) a catalytic converter as defined under Section 76-6-1402; or
- 490 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
- 493 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
- 498 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 499 (B) any offense under Part 5, Fraud;~~[-or]~~
- 500 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 501 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- 504 (iv)
- . (A) the value of property is or exceeds \$500 but is less than \$1,500;
- 505 (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
- 507 (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 509 (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through ~~[(3)(b)(iii)(C),]~~ (D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- 513 (c) a class A misdemeanor if:
- 514 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 515 (ii)
- . (A) the value of property is less than \$500;
- 516 (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
- 518

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- (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 520 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- 524 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

658 Section 10. Section **76-6-408** is amended to read:

659 **76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers, secondhand businesses, coin dealers, and catalytic converter purchasers.**

529 (1)

. (a) As used in this section:

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

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

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

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

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

538 (vi) "Secondhand actor" means:

539 (A) a pawnbroker;

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

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

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

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

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

551 (a) a second degree felony if:

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- 552 (i) the value of the property is or exceeds \$5,000; or
553 (ii) the property is a firearm or an operable motor vehicle;
554 (b) a third degree felony if:
555 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
556 (ii) the property is:
557 (A) a catalytic converter as defined under Section 76-6-1402; or
558 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is
less the \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead
battery;
561 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any
of the following offenses, if each prior offense was committed within 10 years before the date of the
current conviction or the date of the offense upon which the current conviction is based and at least
one of those convictions is for a class A misdemeanor:
566 (A) any theft, any robbery, or any burglary with intent to commit theft;
567 (B) any offense under Part 5, Fraud;[-~~or~~]
568 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
569 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C); or
572 (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within
10 years before the date of the current conviction or the date of the offense upon which the current
conviction is based;
576 (c) a class A misdemeanor if:
577 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
578 (ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A)
through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was committed within 10 years before the date of
the current conviction or the date of the offense upon which the current conviction is based; or
582 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is not an offense
under Subsection (3)(c).
584 (4) Except as provided in Subsection (5), the knowledge or belief required under Subsection (2) is
presumed in the case of an actor who:

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- 586 (a) is found in possession or control of other property stolen on a separate occasion; or
587 (b) has received other stolen property within the year preceding the receiving offense charged.
589 (5)
- . (a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.
- 592 (b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.
- 596 (c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.
- 599 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a scrap metal processor.
- 601 (7) This section does not preclude the admission of evidence in accordance with the Utah Rules of Evidence.
- 603 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.
- 738 Section 11. Section **76-6-409** is amended to read:
739 **76-6-409. Theft of service.**
- 608 (1)
- . (a) As used in this section, "service" includes:
- 609 (i) labor, professional service, a public utility or transportation service, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to entertainment, an exhibition, a sporting event, or other event for which a charge is made;
- 614 (ii) gas, electricity, water, sewer, or cable television service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.3; and
- 617 (iii) telephone service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.
- 620 (b) Terms defined in Section 76-1-101.5 apply to this section.

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- 621 (2) An actor commits theft of service if:
- 622 (a) the actor, by deception, threat, force, or another means designed to avoid due payment, obtains a
service that the actor knows is available only for compensation; or
- 624 (b) the actor:
- 625 (i) has control over the disposition of another person's service; and
- 626 (ii)
- . (A) diverts the other person's service to the benefit of the actor, knowing that the actor is not entitled to
the service; or
- 628 (B) diverts the other person's service to the benefit of a third person, knowing that the third person is not
entitled to the service.
- 630 (3) A violation of Subsection (2) is:
- 631 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 632 (b) a third degree felony if:
- 633 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 634 (ii) the value of the service is or exceeds \$500 and the actor has been twice before convicted of any of
the following offenses, if each prior offense was committed within 10 years before the date of the
current conviction or the date of the offense upon which the current conviction is based and at least
one of those convictions is for a class A misdemeanor:
- 639 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 640 (B) any offense under Part 5, Fraud; ~~[-or]~~
- 641 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 642 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
equivalent to an offense under Subsection (3)(b)(ii)(A), (B), or (C);
- 645 (iii)
- . (A) the value of the service is or exceeds \$500 but is less than \$1,500;
- 646 (B) the theft occurs on a property where the offender has committed any theft within the past five years;
and
- 648 (C) the offender has received written notice from the merchant prohibiting the offender from entering
the property pursuant to Subsection 78B-3-108(4); or
- 650 (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(ii)(A) through ~~[(3)(b)(ii)(C),]~~ (D), if the prior offense was committed within

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

654 (c) a class A misdemeanor if:

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

656 (ii)

. (A) the value of the service is less than \$500;

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

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

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

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

799 Section 12. Section **76-6-409.3** is amended to read:

800 **76-6-409.3. Theft of utility or cable television services -- Restitution -- Civil action for
damages.**

670 (1)

. (a) As used in this section:

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

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

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

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

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

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- 683 (vi) "Utility" means any public utility, municipally owned utility, or cooperative utility that
provides electricity, gas, water, or sewer, or any combination of electricity, gas, water, or sewer,
for sale to consumers.
- 686 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 687 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due payment
to the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable
television available to a tenant or occupant, including to the actor, by committing any of the
following acts:
- 691 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or other instrument
used for conducting gas, electricity, water, sewer, or cable television in a manner as permits the use
of the gas, electricity, water, sewer, or cable television without the gas, electricity, water, sewer, or
cable television passing through a meter or other instrument recording the usage for billing;
- 696 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument
used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining
any modification or alteration to any device installed with the authorization of a cable television
company for the purpose of intercepting or receiving any program or other service carried by the
company that the actor is not authorized by the company to receive;
- 702 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or otherwise restoring
service when one or more of those utilities or cable service has been lawfully disconnected or turned
off by the provider of the utility or cable service;
- 705 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking device, or
other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a
security system for the recording device, or a cable television control device;
- 709 (e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer
service;
- 711 (f) transferring from one location to another location a metering device for measuring quantities of
public utility services of gas, electricity, water, or sewer service;
- 713 (g) changing the indicated consumption, jamming the measuring device, bypassing the meter or
measuring device with a jumper so that it does not indicate use or registers use incorrectly, or
otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without the

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gas, electricity, water, or sewer service passing through a metering device for measuring quantities of consumption for billing purposes;

- 719 (h) using a metering device belonging to the utility that has not been assigned to the location and
installed by the utility;
- 721 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service
diversion, meter tampering, meter thefts, and unauthorized cable television service;
- 724 (j) assisting or instructing a person in obtaining or attempting to obtain any cable television service
without payment of all lawful compensation to the company providing the service;
- 727 (k) making or maintaining a connection or connections, whether physical, electrical, mechanical,
acoustical, or by other means, with a cable, wire, component, or other device used for the
distribution of cable television services without authority from the cable television company; or
- 731 (l) possessing without authority any device or printed circuit board designed in whole or in part to
receive any cable television programming or service offered for sale over a cable television system,
unless the device or printed circuit board includes the use of a satellite dish or antenna, with the
intent that the device or printed circuit be used for the reception of the cable television company's
services without payment.
- 736 (3)
- . (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
- 737 (i) a second degree felony if:
- 738 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000; or
- 740 (B) if the actor previously has been convicted of a violation of this section;
- 741 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or exceeds
\$1,500 but is not more than \$5,000;
- 743 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is or exceeds
\$500 but is not more than \$1,500; or
- 745 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is less than
\$500.
- 747 (b) A violation of Subsection (2), if the violation is a theft of a cable television service, is:
- 749 (i) a second degree felony if the value of the service is or exceeds \$5,000;
- 750 (ii) a third degree felony if:
- 751 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;

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- 752 (B) the value of the service is or exceeds \$500 and the actor has been twice before convicted of any of
the following offenses, if each prior offense was committed within 10 years before the date of the
current conviction or the date of the offense upon which the current conviction is based and at least
one of those convictions is for a class A misdemeanor:
- 757 (I) any theft, any robbery, or any burglary with intent to commit theft;
- 758 (II) any offense under Part 5, Fraud;~~[-or]~~
- 759 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or
- 761 (IV) any offense in another jurisdiction, including a state, federal, or military court, that is substantially
equivalent to an offense under Subsection (3)(b)(ii)(B)(I), (II), or (III); or
- 764 (C) the actor has been previously convicted of a felony violation of any of the offenses listed in
Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV), if the prior offense was committed
within 10 years before the date of the current conviction or the date of the offense upon which the
current conviction is based;
- 769 (iii) a class A misdemeanor if:
- 770 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
- 771 (B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(B)
(I) through [~~(3)(b)(ii)(B)(III),~~] (IV), if each prior offense was committed within 10 years before the
date of the current conviction or the date of the offense upon which the current conviction is based;
or
- 776 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is not an offense
under Subsection (3)(b)(iii).
- 778 (c)
- . (i) An actor who violates this section shall make restitution to the utility or cable television company
for the value of the gas, electricity, water, sewer, or cable television service consumed in violation
of this section plus all reasonable expenses and costs incurred on account of the violation of this
section.
- 782 (ii) Reasonable expenses and costs include expenses and costs for investigation, disconnection,
reconnection, service calls, employee time, and equipment use.
- 784 (4)
- . (a) The presence on property in the possession of an actor of a device or alteration that permits the
diversion or use of utility or cable service to avoid the registration of the use by or on a meter

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installed by the utility or to otherwise avoid the recording of use of the service for payment or otherwise avoid payment gives rise to an inference that the actor in possession of the property installed the device or caused the alteration if:

- 790 (i) the presence of the device or alteration can be attributed only to a deliberate act in furtherance of
an intent to avoid payment for utility or cable television service; and
- 792 (ii) the actor charged has received the direct benefit of the reduction of the cost of the utility or
cable television service.
- 794 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section 76-2-202.
- 796 (5)
- . (a) Criminal prosecution under this section does not affect the right of a utility or cable television
company to bring a civil action for redress for damages suffered as a result of the commission of any
of the acts prohibited by this section.
- 799 (b) This section does not abridge or alter any other right, action, or remedy otherwise available to a
utility or cable television company.

933 Section 13. Section **76-6-410** is amended to read:

934 **76-6-410. Theft by custodian of property pursuant to repair or rental agreement.**

- 803 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 804 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement if:
- 806 (a)
- . (i) the actor has custody of property pursuant to an agreement between the actor or another person and
the property's owner;
- 808 (ii) the actor or another person is to perform for compensation a specific service for the property's
owner involving the maintenance, repair, or use of the owner's property; and
- 811 (iii) the actor intentionally uses or operates the owner's property, without the consent of the owner, for
the actor's own purposes in a manner constituting a gross deviation from the agreed purpose; or
- 814 (b)
- . (i) the actor has custody of any property pursuant to a rental or lease agreement in which the property is
to be returned in a specified manner or at a specified time; and
- 817 (ii) the actor intentionally fails to comply with the terms of the agreement concerning return so as to
render such failure a gross deviation from the agreement.
- 819 (3) A violation of Subsection (2) is:

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- 820 (a) a second degree felony if the:
- 821 (i) value of the property is or exceeds \$5,000; or
- 822 (ii) property stolen is a firearm or an operable motor vehicle;
- 823 (b) a third degree felony if:
- 824 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 825 (ii) the property is:
- 826 (A) a catalytic converter as defined under Section 76-6-1402; or
- 827 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
- 830 (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
- 835 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 836 (B) any offense under Part 5, Fraud;[-~~or~~]
- 837 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 838 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C); or
- 841 (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- 845 (c) a class A misdemeanor if:
- 846 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
- 847 (ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- 851 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

985 Section 14. Section 76-6-506 is amended to read:

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986 **76-6-506. Financial transaction card offenses -- Definitions.**

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

- 988 (1) "Authorized credit card merchant" means a person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by a card holder and to present valid credit card sales drafts to the issuer for payment.
- 992 (2) "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.
- 995 (3) "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued.
- 997 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record of a sale of money, goods, services, or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card credit number, or personal identification code, whether the record of the sale or purported sale is evidenced by a sales draft, voucher, or other similar document in writing or electronically recorded and transmitted.
- 1003 (5) "Financial transaction card" means:
- 1004 (a) any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or business;~~[-or]~~
- 1010 (b) any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers' checks, or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account~~[-]~~ ; or
- 1016 (c) a card, code, or device that is:
- 1017 (i) issued to a consumer on a prepaid basis in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment;

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- 1019 (ii) activated or inactivated; and
- 1020 (iii) redeemable upon presentation:
- 1021 (A) by a consumer at a single merchant or group of affiliated merchants; or
- 1022 (B) at multiple unaffiliated merchants for goods or services within the payment card network.
- 1024 (6) "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.
- 1026 (7) "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of the holder's financial transaction card.
- 1029 Section 15. Section **76-6-602** is amended to read:
- 1030 **76-6-602. Retail theft.**
- 855 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 856 (2) An actor commits retail theft if the actor knowingly:
- 857 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:
- 860 (i) retaining the merchandise; or
- 861 (ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;
- 863 (b)
- . (i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and
- 866 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;
- 869 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;
- 873 (d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or
- 875 (e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

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- 878 (3) A violation of Subsection (2) is:
- 879 (a) a second degree felony if the:
- 880 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;
- 881 (ii) merchandise stolen is a firearm or an operable motor vehicle;~~[-or]~~
- 882 (b) a third degree felony if:
- 883 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
- 884 (ii) the merchandise is:
- 885 (A) a catalytic converter as defined under Section 76-6-1402; or
- 886 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the retail value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
- 889 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
- 894 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 895 (B) any offense under Part 5, Fraud;~~[-or]~~
- 896 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 897 (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- 900 (iv)
- . (A) the retail value of merchandise or shopping cart is or exceeds \$500 but is less than \$1,500;
- 902 (B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and
- 905 (C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 908 (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

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- 912 (c) a class A misdemeanor if:
- 913 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but is less than \$1,500;
- 915 (ii)
- . (A) the retail value of merchandise or shopping cart is less than \$500;
- 916 (B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and
- 919 (C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 922 (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- 926 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

1104 Section 16. Section **76-6-608** is amended to read:

1105 **76-6-608. Theft detection shielding devices prohibited.**

- 930 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 931 (2) An actor commits the unlawful shielding of a theft detection device if the actor knowingly:
- 933 (a) makes or possesses any container or device used for, intended for use for, or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 936 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any container or device intended for use for or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor;
- 939 (c) possesses any tool or instrument designed to remove any theft detection device from any merchandise, with the intent to use the tool or instrument to remove any theft detection device from any merchandise without the permission of the merchant or the person owning or in possession of the merchandise; or
- 943 (d) intentionally removes a theft detection device from merchandise prior to purchase and without the permission of the merchant.
- 945 (3)

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- . (a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.
- 946 (b) A violation of Subsection (2)(d) is a:
- 947 (i) class B misdemeanor if the retail value of the merchandise from which the theft detection device is
removed is less than \$500; or
- 949 (ii) class A misdemeanor if the retail value of the merchandise from which the theft detection device is
removed is or exceeds \$500.
- 951 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4, Theft, or Part 6,
Retail Theft.
- 953 (5) Criminal prosecutions under this section do not affect any person's right of civil action for redress
for damages suffered as a result of any violation of this section.
- 1131 Section 17. Section **76-9-802** is amended to read:
- 1132 **76-9-802. Definitions.**
- As used in this part:
- 958 (1) "Criminal street gang" means an organization, association in fact, or group of three or more
[persons] individuals, whether operated formally or informally:
- 960 (a) that is currently in operation;
- 961 (b) that has as one of its primary activities the commission of [~~one or more predicate gang crimes~~] a
criminal offense;
- 963 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
- 964 (d) whose members, acting individually or in concert with other members, engage in or have engaged in
a pattern of criminal gang activity.
- 966 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the
purpose of causing an individual to act or refrain from acting.
- 968 (3) "Minor" means [~~a person~~] an individual younger than 18 years old.
- 969 (4) "Pattern of criminal gang activity" means:
- 970 (a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or
more [~~predicate gang crimes~~] criminal offenses within five years;
- 973 (b) the [~~predicate gang crimes~~] criminal offenses are:
- 974 (i) committed by two or more [~~persons~~] individuals; or
- 975 (ii) committed by an individual at the direction of, or in association with a criminal street gang; and
- 977

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

980 [(5)

. (a) "Predicate gang crime" means any of the following offenses:]

981 [(i) Title 41, Chapter 1a, Motor Vehicle Act;]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1000 [(ix) Title 76, Chapter 6, Part 3, Robbery;]

1001 [(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6,
Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1,
76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;]

1005 [(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508,
76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518,
and 76-6-520;]

1008 [(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]

1009

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- 1011 [(xiii) Title 76, 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;]
- 1012 [(xiv) tampering with a witness under Section 76-8-508;]
- 1013 [(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]
- 1014 [(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 1015 [(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]
- 1016 [(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation
occurs at an official meeting;]
- 1017 [(xix) Title 76, Chapter 10, Part 3, Explosives;]
- 1018 [(xx) Title 76, Chapter 10, Part 5, Weapons;]
- 1019 [(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]
- 1020 [(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]
- 1021 [(xxiii) communications fraud under Section 76-10-1801;]
- 1022 [(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;
or]
- 1023 [(xxv) burglary of a research facility under Section 76-10-2002.]
- 1024 [(b) "Predicate gang crime" also includes:]
- 1025 [(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force
may be used against another in the course of committing the offense; and]
- 1026 [(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 violation of any offense in
Subsection (4)(a) if committed in this state.]
- 1210 Section 18. Section **76-9-803** is amended to read:
- 1211 **76-9-803. Soliciting, recruiting, enticing, or intimidating a minor to join a criminal street
gang.**
- 1034 [(1) It is a class B misdemeanor to:]
- 1035 [(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or not the minor
actually joins the criminal street gang;]
- 1037 [(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to join a
criminal street gang; or]
- 1039

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- [~~(e) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.~~]
- 1041 [~~(2) It is a class A misdemeanor for any person who is a member of or actively involved with a criminal street gang to:~~]
- 1043 [~~(a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or~~]
- 1045 [~~(b) commit a violation of Subsection (1)(a):~~]
- 1046 [~~(i) more than once;~~]
- 1047 [~~(ii) regarding the same minor; and~~]
- 1048 [~~(iii) within a period of 180 days.~~]
- 1049 [~~(3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.~~]
- 1051 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1052 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if the actor:
- 1054 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
- 1055 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a minor to join a criminal street gang.
- 1057 (3) A violation of Subsection (2) is:
- 1058 (a) a class A misdemeanor if the actor is a minor; or
- 1059 (b) a third degree felony if the actor is 18 years old or older.
- 1060 (4) It is not a defense to a prosecution under this section that the minor did not join the criminal street gang.
- 1241 Section 19. Section **19** is enacted to read:
- 1242 **76-9-803.1. Aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang.**
- 1065 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1066 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if, in the course of committing an offense under Section 76-9-803, the offense:
- 1069 (a) involves the use of a dangerous weapon;
- 1070 (b) results in serious bodily injury to any individual; or

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- 1071 (c) results in serious emotional distress to any individual.
- 1072 (3) A violation of Subsection (2) is:
- 1073 (a) a third degree felony if the actor is a minor; or
- 1074 (b) a second degree felony if the actor is 18 years old or older.
- 1075 (4) It is not a defense to a prosecution under this section that the minor did not join the criminal street gang.
- 1256 Section 20. Section **20** is enacted to read:
- 1257 **76-9-803.2. Intimidating a minor to remain in a criminal street gang.**
- 1079 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1080 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor intimidates a minor to prevent the minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.
- 1083 (3) A violation of Subsection (2) is:
- 1084 (a) a class A misdemeanor if the actor is a minor; or
- 1085 (b) a third degree felony if the actor is 18 years old or older.
- 1086 (4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) left or ended the minor's affiliation with a criminal street gang.
- 1267 Section 21. Section **21** is enacted to read:
- 1268 **76-9-803.3. Aggravated intimidating a minor to remain in a criminal street gang.**
- 1090 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1091 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if, in the course of committing an offense under Section 76-9-803.2, the offense:
- 1093 (a) involves the use of a dangerous weapon;
- 1094 (b) results in serious bodily injury to any individual; or
- 1095 (c) results in serious emotional distress to any individual.
- 1096 (3) A violation of Subsection (2) is:
- 1097 (a) a third degree felony if the actor is a minor; or
- 1098 (b) a second degree felony if the actor is 18 years old or older.
- 1099 (4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) left or ended the minor's affiliation with a criminal street gang.
- 1280 **Section 22. Section 76-10-1302 is amended to read:**

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1281 **76-10-1302. Prostitution.**

- 1282 (1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the actor engages
in sexual activity with another individual for a fee, or the functional equivalent of a fee.
- 1285 (2)
- . (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of Subsection (1) is a
class B misdemeanor.
- 1287 (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 (1) is a class A misdemeanor if the actor has previously been convicted of:
- 1291 (i) a violation of Subsection (1);
- 1292 (ii) ~~[under] a local ordinance adopted [under] in accordance with Section 76-10-1307[, is guilty of a
class A misdemeanor]~~ addressing the same or similar type of violation to the violation described in
Subsection (1); or
- 1295 (iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is
substantially equivalent to the violation described in Subsection (1).
- 1297 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor engages in
a violation of Subsection (1) 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:
- 1301 (a) assault, Section 76-5-102;
- 1302 (b) aggravated assault, Section 76-5-103;
- 1303 (c) mayhem, Section 76-5-105;
- 1304 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide
by assault under Chapter 5, Part 2, Criminal Homicide;
- 1306 (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 Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 1310 (f) rape, Section 76-5-402;
- 1311 (g) rape of a child, Section 76-5-402.1;
- 1312 (h) object rape, Section 76-5-402.2;
- 1313 (i) object rape of a child, Section 76-5-402.3;

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- 1314 (j) forcible sodomy, Section 76-5-403;
- 1315 (k) sodomy on a child, Section 76-5-403.1;
- 1316 (l) forcible sexual abuse, Section 76-5-404;
- 1317 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;
- 1319 (n) aggravated sexual assault, Section 76-5-405;
- 1320 (o) sexual exploitation of a minor, Section 76-5b-201;
- 1321 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 1322 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 1323 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass;
- 1325 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or
- 1326 (t) theft by extortion under Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

1329 Section 23. Section 76-10-1303 is amended to read:

1330 **76-10-1303. Patronizing a prostitute.**

- 1331 (1) An actor is guilty of patronizing a prostitute if the actor:
- 1332 (a) pays or offers 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, for the purpose of engaging in an act of sexual activity; or
- 1335 (b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.
- 1337 [~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) or Section 76-10-1309.~~]
- 1339 [~~(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.~~]
- 1342 [~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307 is a third degree felony.~~]
- 1344 (2)
- . (a) Except as provided in Subsection (2)(b), (3), or Section 76-10-1309, a violation of Subsection (1) is a class A misdemeanor with a mandatory fine of not less than \$5,000.

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(b) A violation of Subsection (1) is a third degree felony, with a mandatory fine of not less than \$10,000, if the actor has previously been convicted two or more times of:

1349 (i) a violation of Subsection (1);

1350 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the same or similar type of violation to the violation described in Subsection (1); or

1352 (iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (1).

1354 [~~5~~] (3)

(a) Except as provided in Subsection [~~5~~](~~d~~) (3)(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 with a mandatory fine of not less than \$20,000.

1358 (b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under Subsection [~~5~~](~~a~~) (3)(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.

1362 (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~~) (3)(a).

1365 (d) If the act committed under Subsection [~~5~~](~~a~~) (3)(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~~) (3)(a), this Subsection [~~5~~] (3) does not prohibit prosecution and sentencing for the more serious offense.

1369 [~~6~~] (4) Upon a conviction for a violation of this section, the court shall order:

1370 (a) the maximum fine amount and may not waive or suspend the fine; and

1371 (b) 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.

1373 Section 24. Section 76-10-1304 is amended to read:

1374 **76-10-1304. Aiding prostitution.**

1375 (1) An individual is guilty of aiding prostitution if the individual:

1376 (a)

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

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- (ii) procures or attempts to procure a prostitute, or an individual the actor believes to be a prostitute, for a patron;
- 1380 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or
- 1383 (iv) provides any service or commits any act that enables another individual to commit a violation of this Subsection (1)(a) or facilitates another individual's ability to commit any violation of this Subsection (1)(a); or
- 1386 (b) solicits, receives, or agrees to receive any benefit for committing any of the acts prohibited by Subsection (1)(a).
- 1388 [~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~
- 1389 [~~(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.]~~
- 1392 (2)
- . (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A misdemeanor.
- 1394 (b) A violation of Subsection (1) is a third degree felony if the actor has previously been convicted of:
- 1396 (i) a violation of Subsection (1);
- 1397 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the same or similar type of violation to the violation described in Subsection (1); or
- 1399 (iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (1).
- 1401 [~~(4)~~] (3) Upon a conviction for a violation of this section, the court shall order [~~the maximum fine amount~~] a fine of not less than \$10,000 and may not waive or suspend the fine.
- 1404 Section 25. Section **76-10-1602** is amended to read:
- 1405 **76-10-1602. Definitions.**
- As used in this part:
- 1104 (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.
- 1107 (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

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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.

- 1117 (3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.
- 1119 (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:
- 1125 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;
- 1127 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;
- 1129 (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;
- 1132 (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;
- 1134 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;
- 1136 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
- 1138 (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;
- 1142 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;
- 1144 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;
- 1146 (j) assault under Section 76-5-102;

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- 1147 (k) aggravated assault under Section 76-5-103;
- 1148 (l) a threat of terrorism under Section 76-5-107.3;
- 1149 (m) a criminal homicide offense under Section 76-5-201;
- 1150 (n) kidnapping under Section 76-5-301;
- 1151 (o) aggravated kidnapping under Section 76-5-302;
- 1152 (p) human trafficking for labor under Section 76-5-308;
- 1153 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1154 (r) human smuggling under Section 76-5-308.3;
- 1155 (s) human trafficking of a child under Section 76-5-308.5;
- 1156 (t) ~~[benefiting]~~ benefitting from trafficking and human smuggling under Section 76-5-309;
- 1157 (u) aggravated human trafficking under Section 76-5-310;
- 1158 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1159 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1463 (x) sexual extortion under Section 76-5b-204;
- 1160 ~~[(x)]~~ (y) arson under Section 76-6-102;
- 1161 ~~[(y)]~~ (z) aggravated arson under Section 76-6-103;
- 1162 ~~[(z)]~~ (aa) causing a catastrophe under Section 76-6-105;
- 1163 ~~[(aa)]~~ (bb) burglary under Section 76-6-202;
- 1164 ~~[(bb)]~~ (cc) aggravated burglary under Section 76-6-203;
- 1165 ~~[(cc)]~~ (dd) burglary of a vehicle under Section 76-6-204;
- 1166 ~~[(dd)]~~ (ee) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
- 1168 ~~[(ee)]~~ (ff) robbery under Section 76-6-301;
- 1169 ~~[(ff)]~~ (gg) aggravated robbery under Section 76-6-302;
- 1170 ~~[(gg)]~~ (hh) theft under Section 76-6-404;
- 1171 ~~[(hh)]~~ (ii) theft by deception under Section 76-6-405;
- 1172 ~~[(ii)]~~ (jj) theft by extortion under Section 76-6-406;
- 1173 ~~[(jj)]~~ (kk) receiving stolen property under Section 76-6-408;
- 1174 ~~[(kk)]~~ (ll) theft of services under Section 76-6-409;
- 1175 ~~[(ll)]~~ (mm) forgery under Section 76-6-501;
- 1176 ~~[(mm)]~~ (nn) unlawful use of financial transaction card under Section 76-6-506.2;
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- ~~(mm)~~ (oo) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
- 1179 ~~(oo)~~ (pp) financial transaction card offenses under Section 76-6-506.6;
- 1180 ~~(pp)~~ (qq) deceptive business practices under Section 76-6-507;
- 1181 ~~(qq)~~ (rr) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
- 1183 ~~(rr)~~ (ss) bribery of a labor official under Section 76-6-509;
- 1184 ~~(ss)~~ (tt) defrauding creditors under Section 76-6-511;
- 1185 ~~(tt)~~ (uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 1186 ~~(uu)~~ (vv) unlawful dealing with property by fiduciary under Section 76-6-513;
- 1187 ~~(vv)~~ (ww) bribery or threat to influence contest under Section 76-6-514;
- 1188 ~~(ww)~~ (xx) making a false credit report under Section 76-6-517;
- 1189 ~~(xx)~~ (yy) criminal simulation under Section 76-6-518;
- 1190 ~~(yy)~~ (zz) criminal usury under Section 76-6-520;
- 1191 ~~(zz)~~ (aaa) insurance fraud under Section 76-6-521;
- 1192 ~~(aaa)~~ (bbb) retail theft under Section 76-6-602;
- 1193 ~~(bbb)~~ (ccc) computer crimes under Section 76-6-703;
- 1194 ~~(ccc)~~ (ddd) identity fraud under Section 76-6-1102;
- 1195 ~~(ddd)~~ (eee) mortgage fraud under Section 76-6-1203;
- 1196 ~~(eee)~~ (fff) sale of a child under Section 76-7-203;
- 1197 ~~(fff)~~ (ggg) bribery to influence official or political actions under Section 76-8-103;
- 1198 ~~(ggg)~~ (hhh) threat to influence official or political action under Section 76-8-104;
- 1199 ~~(hhh)~~ (iii) receiving bribe or bribery by public servant under Section 76-8-105;
- 1200 ~~(iii)~~ (jjj) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
- 1202 ~~(jjj)~~ (kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
- 1203 ~~(kkk)~~ (lll) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
- 1205 ~~(lll)~~ (mmm) official misconduct concerning inside information under Section 76-8-202;
- 1206 ~~(mmm)~~ (nnn) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- 1208 ~~(nnn)~~ (ooo) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
- 1210 ~~(ooo)~~ (ppp) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

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- 1212 ~~[(ppp)]~~ (qqq) making a false or inconsistent material statement under Section 76-8-502;
- 1213 ~~[(qqq)]~~ (rrr) making a false or inconsistent statement under Section 76-8-503;
- 1214 ~~[(rrr)]~~ (sss) making a written false statement under Section 76-8-504;
- 1215 ~~[(sss)]~~ (ttt) tampering with a witness under Section 76-8-508;
- 1216 ~~[(ttt)]~~ (uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 1217 ~~[(uuu)]~~ (vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 1218 ~~[(vvv)]~~ (www) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 1219 ~~[(www)]~~ (xxx) tampering with evidence under Section 76-8-510.5;
- 1220 ~~[(xxx)]~~ (yyy) 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;
- 1223 ~~[(yyy)]~~ (zzz) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;
- 1225 ~~[(zzz)]~~ (aaaa) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;
- 1227 ~~[(aaaa)]~~ (bbbb) public assistance fraud by a provider under Section 76-8-1203.5;
- 1228 ~~[(bbbb)]~~ (cccc) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
- 1229 ~~[(cccc)]~~ (dddd) false statement to obtain or increase unemployment compensation under Section 76-8-1301;
- 1231 ~~[(dddd)]~~ (eeee) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;
- 1233 ~~[(eeee)]~~ (ffff) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;
- 1235 ~~[(ffff)]~~ (gggg) unlawful use or disclosure of employment information under Section 76-8-1304;
- 1236 ~~[(gggg)]~~ (hhhh) 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;
- 1238 ~~{(hhhh)}~~ (iii) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang under Section 76-9-803;
- 1240 ~~{(iiii)}~~ (jjj) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang under Section 76-9-803.1;
- 1242 ~~{(jjj)}~~ (kkk) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;
- 1243 ~~{(kkk)}~~ (lll) aggravated intimidating a minor to remain in a criminal street gang under Section 76-9-803.3;

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- 1245 [(hhhh)] {(HHH)} (mmmm) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;
- 1247 [(iii)] {(mmmm)} (nnnn) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;
- 1249 [(jjjj)] {(nnnn)} (oooo) possession of a deadly weapon with intent to assault under Section 76-10-507;
- 1251 [(kkkk)] {(oooo)} (pppp) unlawful marking of pistol or revolver under Section 76-10-521;
- 1252 [(HH)] {(pppp)} (qqqq) alteration of number or mark on pistol or revolver under Section 76-10-522;
- 1253 [(mmmm)] {(qqqq)} (rrrr) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;
- 1255 [(nnnn)] {(rrrr)} (ssss) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;
- 1257 [(oooo)] {(ssss)} (tttt) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;
- 1259 [(pppp)] {(tttt)} (uuuu) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;
- 1261 [(qqqq)] {(uuuu)} (vvvv) gambling under Section 76-10-1102;
- 1262 [(rrrr)] {(vvvv)} (www) gambling fraud under Section 76-10-1103;
- 1263 [(ssss)] {(www)} (xxxx) gambling promotion under Section 76-10-1104;
- 1264 [(tttt)] {(xxxx)} (yyyy) possessing a gambling device or record under Section 76-10-1105;
- 1265 [(uuuu)] {(yyyy)} (zzzz) confidence game under Section 76-10-1109;
- 1266 [(vvvv)] {(zzzz)} (aaaa) distributing pornographic material under Section 76-10-1204;
- 1267 [(www)] {(aaaa)} (bbbb) inducing acceptance of pornographic material under Section 76-10-1205;
- 1269 [(xxxx)] {(bbbb)} (cccc) dealing in harmful material to a minor under Section 76-10-1206;
- 1270 [(yyyy)] {(cccc)} (dddd) distribution of pornographic films under Section 76-10-1222;
- 1271 [(zzzz)] {(dddd)} (eeee) indecent public displays under Section 76-10-1228;
- 1272 [(aaaa)] {(eeee)} (ffff) prostitution under Section 76-10-1302;
- 1273 [(bbbb)] {(ffff)} (gggg) aiding prostitution under Section 76-10-1304;
- 1274 [(eeee)] {(gggg)} (hhhh) exploiting prostitution under Section 76-10-1305;
- 1275 [(dddd)] {(hhhh)} (iiii) aggravated exploitation of prostitution under Section 76-10-1306;
- 1276 [(eeee)] {(iiii)} (jjjj) communications fraud under Section 76-10-1801;
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- [(ffff)] {(jjjj)} (kkkk) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;
- 1279 [(gggg)] {(kkkk)} (llll) vehicle compartment for contraband under Section 76-10-2801;
- 1280 [(hhhh)] {(HHH)} (mmmm) an act prohibited by the criminal provisions of the laws governing taxation in this state; or
- 1282 [(iiii)] {(mmmm)} (nnnn) an act illegal under the laws of the United States and enumerated in 18 U.S.C. [Sec.] Secs. 1961(1)(B), (C), and (D).
- 1591 Section 26. Section **78B-6-1101** is amended to read:
- 1592 **78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.**
- 1286 (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.
- 1289 (2) A nuisance may include the following:
- 1290 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- 1291 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
- 1292 (c) criminal activity committed in concert with [three] two or more [persons] individuals as provided in Section 76-3-203.1;
- 1294 (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;
- 1296 (e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
- 1298 (f) party houses that frequently create conditions defined in Subsection (1); and
- 1299 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1300 (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:
- 1302 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- 1303 (b) creates any of the conditions under Subsection (1).
- 1304 (4) Subsection (3) does not apply to:
- 1305 (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
- 1307 (b) a hotel or motel room.

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- 1308 (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.
- 1311 (6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.
- 1313 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.
- 1315 (8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.
- 1317 (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.
- 1629 Section 27. Section **78B-6-1107** is amended to read:
- 1630 **78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 1325 (1) Every building or place is a nuisance where:
- 1326 (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;
- 1329 (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);
- 1332 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals as provided in Section 76-3-203.1;
- 1334 (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;
- 1336 (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;
- 1338 (f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

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1340 (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; and

1342 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

1343 (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.

1345 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as
defined in Subsection (1).

1654 Section 28. **Effective date.**

This bill takes effect on May 7, 2025.

1656 Section 29. **Coordinating H.B. 38 with H.B. 22 if H.B. 21 does not pass and become law.**

If H.B. 38, Criminal Offenses Modifications, and H.B. 22, Prostitution Offense
Amendments, both pass and become law, and H.B. 21, Criminal Code Recodification and
Cross References, does not pass and become law, the Legislature intends that, on May 7, 2025:

(1) the amendments to Section 76-5d-203, renumbered from Section 76-10-1303, in H.B.

22 supersede the amendments to Section 76-10-1303 in H.B. 38;

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

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

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

(i) a violation of Subsection (2);

(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); or

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

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

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

1675 Section 30. **Coordinating H.B. 38 and H.B. 21, if H.B. 22 does not pass and become law.**

If H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code
Recodification and Cross References, both pass and become law, and H.B. 22, Prostitution

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Offense Amendments, does not pass and become law, the Legislature intends that, on May 7, 2025:

(1) the amendments to Section 76-5d-203, renumbered from Section 76-10-1303, in H.B. 21 supersede the amendments to Section 76-10-1303 in H.B. 38;

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

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

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

(i) a violation of Subsection (2);

(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); or

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

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

"(3) A violation of Subsection (2) is a second degree felony with a mandatory fine of not less than \$20,000."

1695

Section 31. Coordinating H.B. 38 with H.B. 22 and H.B. 21 if all pass and become law.

If H.B. 38, Criminal Offenses Modifications, H.B. 22, Prostitution Offense Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and become law, the Legislature intends that, on May 7, 2025:

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

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

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

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

(i) a violation of Subsection (2);

(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); or

(iii) a criminal violation in another jurisdiction, including a state, federal, or

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military court, that is substantially equivalent to the violation described in Subsection (2).";

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

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

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

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