

HB0296S01 compared with HB0296

~~{Omitted text}~~ shows text that was in HB0296 but was omitted in HB0296S01

inserted text shows text that was not in HB0296 but was inserted into HB0296S01

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Recovery Residence Services Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason B. Kyle

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses residential programs and services.

Highlighted Provisions:

This bill:

▶ modifies definitions;

▶ ~~{modifies definitions to delineate}~~ delineates residential recovery services from ~~{vocational programs and}~~ residential vocational or life skills programs; ~~{and}~~

▶ removes an application requirement for residential vocational or life skills programs; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

None

AMENDS:

13-2-1 , as last amended by Laws of Utah 2024, Chapter 132 , as last amended by Laws of Utah 2024, Chapter 132

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- 19 **13-53-101 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 20 **13-53-102 , as last amended by Laws of Utah 2023, Chapter 458 , as last amended by Laws of Utah
2023, Chapter 458**
- 21 **13-53-103 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 22 **13-53-104 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 23 **13-53-105 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 24 **13-53-106 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 25 **13-53-107 , as last amended by Laws of Utah 2019, Chapter 349 , as last amended by Laws of
Utah 2019, Chapter 349**
-
- 26 **13-53-108 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 27 **13-53-109 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 28 **13-53-110 , as enacted by Laws of Utah 2018, Chapter 252 , as enacted by Laws of Utah
2018, Chapter 252**
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- 29 **13-53-111 , as last amended by Laws of Utah 2023, Chapter 177 , as last amended by Laws of
Utah 2023, Chapter 177**
-
- 30 **26B-2-101 , as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438 , as last
amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438**
- 31 **26B-5-102 , as last amended by Laws of Utah 2024, Chapters 250, 420 , as last amended by
Laws of Utah 2024, Chapters 250, 420**
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- 32 **63M-7-204 , as last amended by Laws of Utah 2024, Chapter 345 , as last amended by Laws
of Utah 2024, Chapter 345**
-
- 33 **64-13-21 , as last amended by Laws of Utah 2024, Chapters 208, 434 , as last amended by
Laws of Utah 2024, Chapters 208, 434**
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34 **76-3-402 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of**
35 **Utah 2024, Chapter 234**

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

37 Section 1. Section 13-2-1 is amended to read:

38 **13-2-1. Consumer protection division established -- Functions.**

- 39 (1) There is established within the Department of Commerce the Division of Consumer Protection.
- 40 (2) The division shall administer and enforce the following:
- 41 (a) Chapter 10a, Music Licensing Practices Act;
- 42 (b) Chapter 11, Utah Consumer Sales Practices Act;
- 43 (c) Chapter 15, Business Opportunity Disclosure Act;
- 44 (d) Chapter 20, New Motor Vehicle Warranties Act;
- 45 (e) Chapter 21, Credit Services Organizations Act;
- 46 (f) Chapter 22, Charitable Solicitations Act;
- 47 (g) Chapter 23, Health Spa Services Protection Act;
- 48 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 49 (i) Chapter 26, Telephone Fraud Prevention Act;
- 50 (j) Chapter 28, Prize Notices Regulation Act;
- 51 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information
52 Act;
- 53 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 54 (m) Chapter 41, Price Controls During Emergencies Act;
- 55 (n) Chapter 42, Uniform Debt-Management Services Act;
- 56 (o) Chapter 49, Immigration Consultants Registration Act;
- 57 (p) Chapter 51, Transportation Network Company Registration Act;
- 58 (q) Chapter 52, Residential Solar Energy Disclosure Act;
- 59 (r) Chapter 53, [~~Residential, Vocational and Life Skills~~] Residential Vocational or Life Skills Program
60 Act;
- 61 (s) Chapter 54, Ticket Website Sales Act;
- 62 (t) Chapter 56, Ticket Transferability Act;
- 63 (u) Chapter 57, Maintenance Funding Practices Act;
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- 65 (v) Chapter 61, Utah Consumer Privacy Act;
66 [~~(w)~~] ~~Chapter 63, Utah Social Media Regulation Act;~~
67 [~~(x)~~] (w) Chapter 64, Vehicle Value Protection Agreement Act;
68 [~~(y)~~] (x) Chapter 65, Utah Commercial Email Act;
69 [~~(z)~~] (y) Chapter 67, Online Dating Safety Act;
70 [~~(aa)~~] (z) Chapter 68, Lawyer Referral Consultants Registration Act;
71 [~~(bb)~~] (aa) Chapter 70, Automatic Renewal Contracts Act; and
72 [~~(cc)~~] (bb) Chapter 71, Utah Minor Protection in Social Media Act.
73 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may
make rules to establish:
75 (a) a public list that identifies a person who:
76 (i) violates a chapter described in Subsection (2);
77 (ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal
process issued by:
79 (A) the division; or
80 (B) a court of competent jurisdiction; or
81 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar
instrument signed by the person and the division; and
83 (b) a process by which a person may be removed from the list the division establishes as described in
Subsection (3)(a).

85 Section 2. Section 13-53-101 is amended to read:

86 **13-53-101. Title.**

This chapter is known as the [~~"Residential, Vocational and Life Skills Program Act]~~
"Residential Vocational or Life Skills Program Act."

89 Section 3. Section 13-53-102 is amended to read:

90 **13-53-102. Definitions.**

As used in this chapter:

- 24 (1) "Division" means the Division of Consumer Protection.
25 (2) "Human services program" means the same as that term is defined in Section 26B-2-101.
26 (3) "Participant" means an individual who:
27

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- (a) resides at a ~~[residential, vocational and life skills]~~ residential vocational or life skills program facility;
- 28 (b) receives from the ~~[residential, vocational and life skills]~~ residential vocational or life skills program:
- 29 (i) vocational training; or
- 30 (ii) life skills training; and
- 31 (c) does not receive monetary compensation from the ~~[residential, vocational and life skills]~~ residential vocational or life skills program.
- 33 (4) "Postsecondary school" means the same as that term is defined in Section 13-34-101.
- 34 (5) "~~[Residential {f} ;{f}] vocational {f} and {or} life skills]~~ Residential vocational or life skills program" means a program that:
- 35 (a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;
- 36 (b) does not accept local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training;
- 39 (c) operates on a mutually voluntary basis with each participant;
- 40 (d) houses at a program facility in this state participants who are unrelated to an owner or a manager of the program facility without charging money for lodging, food, clothing, or training;
- 43 (e) may house transitional graduates for a fee;
- 44 ~~[(f) provides vocational training to participants;]~~
- 45 ~~[(g)]~~ (f) provides vocational or life skills training to participants;
- 46 ~~[(h)]~~ (g) maintains a director or senior staff member at a program facility at all times when the facility is in use;
- 48 ~~[(i)]~~ (h) does not provide mental health services;
- 49 ~~[(j)]~~ (i) does not provide substance use disorder treatment;
- 50 ~~[(k)]~~ (j) does not accept payment from an insurance provider for a participant;
- 51 ~~[(l)]~~ (k) does not award a degree, diploma, or other educational credential commensurate with a degree or diploma;
- 53 ~~[(m)]~~ (l) does not hold itself out as a human services program; and
- 54 ~~[(n)]~~ (m) does not hold itself out as a postsecondary school.
- 55 (6) "Transitional graduate" means an individual who:
- 56 (a) graduated from a ~~[residential, vocational and life skills]~~ residential vocational or life skills program;
- 57

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(b) continues to reside at the ~~[residential, vocational and life skills]~~ residential vocational or life skills program facility; and

58 (c) is employed by an entity not directly affiliated with the ~~[residential, vocational and life skills]~~ residential vocational or life skills program.

60 (7) "Vocational training entity" is a commercial entity where a participant receives vocational training.

135 Section 4. Section 13-53-103 is amended to read:

136 **13-53-103. Registration of a residential vocational or life skills program.**

137 (1) An owner or a manager of a ~~[residential, vocational and life skills]~~ residential vocational or life skills program shall annually register the ~~[residential, vocational and life skills]~~ residential vocational or life skills program with the division.

140 (2) An application for registration shall be on a form approved by the division and shall require:

142 (a) the name, address, telephone number, email address, website, and facsimile number, if any, of the nonprofit corporation operating the ~~[residential, vocational and life skills]~~ residential vocational or life skills program;

145 (b) the name and address of the registered agent of the corporation operating the ~~[residential, vocational and life skills]~~ residential vocational or life skills program;

147 (c) the name, address, telephone number, email address, website, and facsimile number, if any, of the ~~[residential, vocational and life skills]~~ residential vocational or life skills program;

150 (d) the name and address of any entity that controls, is controlled by, or is affiliated with the ~~[residential, vocational and life skills]~~ residential vocational or life skills program;

152 (e) the name and residential address of any officer, director, manager, or administrator of the ~~[residential, vocational and life skills]~~ residential vocational or life skills program;

154 (f) the name, address, telephone number, email address, website, and facsimile number, if any, of any vocational training entity affiliated with the ~~[residential, vocational and life skills]~~ residential vocational or life skills program;

157 (g) a disclosure indicating whether any officer, director, or administrator of the ~~[residential, vocational and life skills]~~ residential vocational or life skills program has been the subject of an administrative action by the division;

160 (h) a disclosure indicating whether any officer, director, or administrator of the ~~[residential, vocational and life skills]~~ residential vocational or life skills program has been convicted of a felony or a crime of moral turpitude within the previous 10 years;

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- 163 ~~[(i) if the organization is a charitable organization, as defined by Section 13-22-2, a copy of the~~
~~charitable organization's registration or exemption;]~~
- 165 ~~[(j)]~~ (i) financial information described in Subsection 13-53-108(1);
- 166 ~~[(k)]~~ (j) proof of a commercial general liability and umbrella insurance policy providing at least a
\$1,000,000 per occurrence limit of liability;
- 168 ~~[(h)]~~ (k) a copy of the disclosure required under Section 13-53-106;
- 169 ~~[(m)]~~ (l) evidence that the applicant meets the description of a ~~[residential, vocational and life~~
~~skills]~~ residential vocational or life skills program under Subsection 13-53-102(5); and
- 172 ~~[(n)]~~ (m) additional information that the division requires, as provided in administrative rule.
- 174 (3) A ~~[residential, vocational and life skills]~~ residential vocational or life skills program is registered on
the day that the division issues the registration.
- 176 (4) The division's issuance of a registration for a ~~[residential, vocational and life skills]~~ residential
vocational or life skills program does not constitute the state's or the division's endorsement or
approval of the ~~[residential, vocational and life skills]~~ residential vocational or life skills program.
- 180 (5) An applicant for the registration of a ~~[residential, vocational and life skills]~~ residential vocational
or life skills program shall file a separate application and pay a separate application fee for each
~~[residential, vocational and life skills]~~ residential vocational or life skills program location.
- 184 (6) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, to implement the registration application process.
- 186 (7) The division may set fees in accordance with Section 63J-1-504 for a ~~[residential, vocational and~~
~~life skills]~~ residential vocational or life skills program registration application.
- 189 Section 5. Section 13-53-104 is amended to read:
- 190 **13-53-104. Registration denial, suspension, or revocation.**
- 191 (1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4,
Administrative Procedures Act, the division may initiate proceedings to deny, suspend, or revoke
the registration of a ~~[residential, vocational and life skills]~~ residential vocational or life skills
program, if:
- 195 (a) the entity holding the registration fails to meet the description of a ~~[residential, vocational and life~~
~~skills]~~ residential vocational or life skills program under Subsection 13-53-102(5);
- 198 (b) the operation of the ~~[residential, vocational and life skills]~~ residential vocational or life skills
program creates a serious risk to public safety or welfare;

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- 200 (c) the registration application or any supplemental information required by the division is incomplete,
false, misleading, or filed in an untimely manner;
- 202 (d) the ~~[residential, vocational and life skills]~~ residential vocational or life skills program or an
individual described in Subsection 13-53-103(2)(e) causes or allows to occur a violation of any
provision of municipal, state, or federal law, including an administrative rule made under this
chapter;
- 206 (e)
- . (i) an individual described in Subsection 13-53-103(2)(e) is convicted of a felony or a crime of moral
turpitude within the previous 10 years; and
- 208 (ii) the ~~[residential, vocational and life skills]~~ residential vocational or life skills program does not have
adequate controls to minimize associated risks to the participants of the ~~[residential, vocational and
life skills]~~ residential vocational or life skills program and to the public; or
- 212 (f) the ~~[residential, vocational and life skills]~~ residential vocational or life skills program fails to pay
an administrative fine that the division lawfully imposes on the ~~[residential, vocational and life
skills]~~ residential vocational or life skills program.
- 215 (2) The division may place reasonable limits upon a ~~[residential, vocational and life skills]~~ residential
vocational or life skills program's operations, if:
- 217 (a) the division has reasonable concerns about the ~~[residential, vocational and life skills]~~ residential
vocational or life skills program's ability to comply with this chapter; and
- 219 (b) the limitation is reasonably calculated to protect the interests of the public or the participants of the
~~[residential, vocational and life skills]~~ residential vocational or life skills program.
- 222 (3) When the demands of public safety permit, the division shall allow a ~~[residential, vocational and life
skills]~~ residential vocational or life skills program a reasonable amount of time to remedy a violation
under this chapter before the division suspends or revokes a registration.
- 226 (4) The division may require an individual described in Subsection 13-53-103(2)(e) to submit to a
criminal background check, at the individual's expense or the expense of the ~~[residential, vocational
and life skills]~~ residential vocational or life skills program.

229 Section 6. Section 13-53-105 is amended to read:

230 **13-53-105. Prohibited acts.**

A ~~[residential, vocational and life skills]~~ residential vocational or life skills program may
not:

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- 233 (1) operate without a registration issued under Section 13-53-103;
- 234 (2) utilize any behavioral intervention that is not peer-led or that uses the services of any professional or
any person purporting to be a professional;
- 236 (3) accept a participant before providing to the participant the disclosure described in Section
13-53-106; or
- 238 (4) use physical force or permit the use of physical force.

239 Section 7. Section 13-53-106 is amended to read:

240 **13-53-106. Disclosure to participants.**

- 241 (1) Before accepting a participant, a [~~residential, vocational and life skills~~] residential vocational or life
skills program shall provide to the prospective participant a written disclosure.
- 244 (2) The written disclosure shall include:
- 245 (a) a statement that the program is a registered [~~residential, vocational and life skills~~] residential
vocational or life skills program, but that the [~~residential, vocational and life skills~~] residential
vocational or life skills program is not endorsed by the state or the division;
- 249 (b) a statement that the prospective participant's continuation in the program is voluntary and that a
participant may leave at any time;
- 251 (c) the conditions under which a participant is removed from the [~~residential, vocational and life
skills~~] residential vocational or life skills program or required to leave a program facility;
- 254 (d) a statement that the [~~residential, vocational and life skills~~] residential vocational or life skills
program will contact Adult Probation and Parole, if required by law; and
- 256 (e) a description of:
- 257 (i) the lodging, food, clothing, and other resources that are available to a participant;
- 258 (ii) the nature and scope of the [~~residential, vocational and life skills~~] residential vocational or life skills
program, including any activities or work that a participant is required to perform;
- 261 (iii) the scope and substance of peer-led activities;
- 262 (iv) the types of vocational training available to a participant, including the limitations on availability;
- 264 (v) the nature and extent of possible exposure to profanity, accusation, confrontation, nonphysical
threats, or nonphysical corrective interaction;
- 266 (vi) the terms of any prohibition from contact with a participant's family, friends, or associates; and
- 268

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(vii) any crimes committed within the previous two years at the [~~residential, vocational and life skills~~] residential vocational or life skills program facility or at a vocational training entity affiliated with the [~~residential, vocational and life skills~~] residential vocational or life skills program.

272 Section 8. Section 13-53-107 is amended to read:

273 **13-53-107. Participant screening.**

- 274 (1) A [~~residential, vocational and life skills~~] residential vocational or life skills program shall interview and screen all prospective participants for medical prescriptions, physical and mental health history, and recent alcohol or drug use.
- 277 (2) Unless an individual obtains a medical clearance from a physician or physician assistant, a [~~residential, vocational and life skills~~] residential vocational or life skills program may not have as a participant an individual who:
- 280 (a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or
- 281 (b) has an active prescription for medication for a mental, social, psychiatric, or psychological illness.
- 283 (3) A [~~residential, vocational and life skills~~] residential vocational or life skills program may not admit a minor.

285 Section 9. Section 13-53-108 is amended to read:

286 **13-53-108. Financial requirements.**

- 287 (1) When applying for registration under Subsection 13-53-103(2), an applicant shall demonstrate fiscal responsibility by providing evidence to the division that the [~~residential, vocational and life skills~~] residential vocational or life skills program:
- 290 (a) is financially sound; and
- 291 (b) reasonably has the fiscal ability to fulfill commitments and obligations to the participants of the [~~residential, vocational and life skills~~] residential vocational or life skills program.
- 294 (2) Evidence acceptable to satisfy the requirement described in Subsection (1) includes:
- 295 (a) for a [~~residential, vocational and life skills~~] residential vocational or life skills program that has been in operation less than one fiscal year:
- 297 (i) pro forma financial statements until further information described in Subsection (2)(b) is available; and
- 299 (ii) a commercial credit report for the [~~residential, vocational and life skills~~] residential vocational or life skills program; or

301

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- (b) for a [~~residential, vocational and life skills~~] residential vocational or life skills program that has completed a fiscal year, and as soon as the [~~residential, vocational and life skills~~] residential vocational or life skills program completes its first fiscal year:
- 305 (i) a current financial statement, with all applicable footnotes, for the most recent fiscal year, including a balance sheet, a statement of income, a statement of retained earnings, and a statement of cash flow; and
- 308 (ii) a certified fiscal audit of the [~~residential, vocational and life skills~~] residential vocational or life skills program's financial statement, performed by a certified or licensed public accountant.
- 311 (3) In evaluating a [~~residential, vocational and life skills~~] residential vocational or life skills program's fiscal responsibility, the division may consider:
- 313 (a) any judgment, tax lien, collection action, bankruptcy schedule, or history of late payments to creditors;
- 315 (b) documentation showing the resolution of a matter described in Subsection (3)(a);
- 316 (c) the [~~residential, vocational and life skills~~] residential vocational or life skills program's explanation for a matter described in Subsection (3)(a);
- 318 (d) a guarantee agreement provided for the [~~residential, vocational and life skills~~] residential vocational or life skills program; and
- 320 (e) history of a prior entity that:
- 321 (i) is owned or operated by any individual who is an officer, a director, or an administrator of the [~~residential, vocational and life skills~~] residential vocational or life skills program; and
- 324 (ii) has failed to maintain fiscal responsibility.
- 325 (4) The division may require evidence of financial status at other times when it is in the best interest of the program participants to require the information.
- 327 (5) The division may perform a fiscal audit of a [~~residential, vocational and life skills~~] residential vocational or life skills program.
- 329 (6) A [~~residential, vocational and life skills~~] residential vocational or life skills program shall develop and maintain adequate internal controls for receipt, management, and disbursement of money that are reasonable in light of the [~~residential, vocational and life skills~~] residential vocational or life skills program's organizational complexity.

333 Section 10. Section 13-53-109 is amended to read:

334 **13-53-109. Discontinuance of operations.**

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335 (1) A [~~residential, vocational and life skills~~] residential vocational or life skills program that is closing shall adopt a plan for the provision of food, shelter, and clothing for at least 30 days from the date of closure to participants displaced by the closure.

338 (2) At least 30 days before the day on which the [~~residential, vocational and life skills~~] residential vocational or life skills program will close, the [~~residential, vocational and life skills~~] residential vocational or life skills program shall provide written notice to the division of:

342 (a) the intended date of closure; and

343 (b) the plan described in Subsection (1).

344 Section 11. Section 13-53-110 is amended to read:

345 **13-53-110. Enforcement.**

346 (1) The division may investigate facilities and enforce this chapter under the authority described in Chapter 2, Division of Consumer Protection.

348 (2) To monitor the welfare of participants and transitional graduates, if any, and to monitor the safe operation of a [~~residential, vocational and life skills~~] residential vocational or life skills program, the division shall:

351 (a) annually perform an on-site inspection of a registered [~~residential, vocational and life skills~~] residential vocational or life skills program;

353 (b) refer each concern that the division identifies during the on-site inspection to the state or municipal entity responsible for the area of concern; and

355 (c) coordinate with each relevant state and municipal entity to monitor the [~~residential, vocational and life skills~~] residential vocational or life skills program's compliance with the entity's relevant health and safety regulations.

358 (3) In addition to penalties established by this chapter and in addition to the enforcement authority described in Chapter 2, Division of Consumer Protection, the division may:

360 (a) issue a cease and desist order;

361 (b) impose an administrative fine of up to \$2,500 for each violation of this chapter; and

362 (c) seek injunctive relief in a court of competent jurisdiction.

363 (4) All money received from fines imposed under this section shall be deposited into the Consumer Protection Education and Training Fund, created in Section 13-2-8.

365 Section 12. Section 13-53-111 is amended to read:

366 **13-53-111. Recidivism reporting requirements.**

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367 (1) On or before August 31 of each year, a [~~residential, vocational and life skills~~] residential vocational
or life skills program shall collect and report data on recidivism of participants to the State
Commission on Criminal and Juvenile Justice.

370 (2) The report described in Subsection (1) shall include the metrics and requirements described in
Section 63M-7-102.

372 (3) The State Commission on Criminal and Juvenile Justice shall include the information provided
under this section in the report described in Subsection 63M-7-204(1)(x).

374 Section 13. Section **26B-2-101** is amended to read:

375 **26B-2-101. Definitions.**

As used in this part:

65 (1) "Adoption services" means the same as that term is defined in Section 80-2-801.

66 (2) "Adult day care" means nonresidential care and supervision:

67 (a) for three or more adults for at least four but less than 24 hours a day; and

68 (b) that meets the needs of functionally impaired adults through a comprehensive program that provides
a variety of health, social, recreational, and related support services in a protective setting.

71 (3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

73 (4)

. (a) "Associated with the licensee" means that an individual is:

74 (i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent,
provider of care, department contractor, or volunteer; or

76 (ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

78 (b) "Associated with the licensee" does not include:

79 (i) service on the following bodies, unless that service includes direct access to a child or a vulnerable
adult:

81 (A) a local mental health authority described in Section 17-43-301;

82 (B) a local substance abuse authority described in Section 17-43-201; or

83 (C) a board of an organization operating under a contract to provide mental health or substance use
programs, or services for the local mental health authority or substance abuse authority; or

86 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

88 (5)

. (a) "Boarding school" means a private school that:

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- 89 (i) uses a regionally accredited education program;
- 90 (ii) provides a residence to the school's students:
- 91 (A) for the purpose of enabling the school's students to attend classes at the school; and
- 93 (B) as an ancillary service to educating the students at the school;
- 94 (iii) has the primary purpose of providing the school's students with an education, as defined in
Subsection (5)(b)(i); and
- 96 (iv)
- . (A) does not provide the treatment or services described in Subsection (40)(a); or
- 98 (B) provides the treatment or services described in Subsection (40)(a) on a limited basis, as described in
Subsection (5)(b)(ii).
- 100 (b)
- . (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades
from kindergarten through grade 12.
- 102 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services
described in Subsection (40)(a) on a limited basis if:
- 104 (A) the treatment or services described in Subsection (40)(a) are provided only as an incidental service
to a student; and
- 106 (B) the school does not:
- 107 (I) specifically solicit a student for the purpose of providing the treatment or services described in
Subsection (40)(a); or
- 109 (II) have a primary purpose of providing the treatment or services described in Subsection (40)(a).
- 111 (c) "Boarding school" does not include a therapeutic school.
- 112 (6) "Certification" means a less restrictive level of licensure issued by the department.
- 113 (7) "Child" means an individual under 18 years old.
- 114 (8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily
or permanently, for the purpose of:
- 116 (a) finding a person to adopt the child;
- 117 (b) placing the child in a home for adoption; or
- 118 (c) foster home placement.
- 119 (9) "Child-placing agency" means a person that engages in child placing.
- 120 (10) "Client" means an individual who receives or has received services from a licensee.

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- 121 (11)
- . (a) "Congregate care program" means any of the following that provide services to a child:
- 123 (i) an outdoor youth program;
- 124 (ii) a residential support program;
- 125 (iii) a residential treatment program; or
- 126 (iv) a therapeutic school.
- 127 (b) "Congregate care program" does not include a human services program that:
- 128 (i) is licensed to serve adults; and
- 129 (ii) is approved by the office to service a child for a limited time.
- 130 (12) "Day treatment" means specialized treatment that is provided to:
- 131 (a) a client less than 24 hours a day; and
- 132 (b) four or more persons who:
- 133 (i) are unrelated to the owner or provider; and
- 134 (ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments,
or chemical dependencies.
- 136 (13) "Department contractor" means an individual who:
- 137 (a) provides services under a contract with the department; and
- 138 (b) due to the contract with the department, has or will likely have direct access to a child or vulnerable
adult.
- 140 (14) "Direct access" means that an individual has, or likely will have:
- 141 (a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity
for personal communication or touch; or
- 143 (b) an opportunity to view medical, financial, or other confidential personal identifying information of
the child, the child's parents or legal guardians, or the vulnerable adult.
- 145 (15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual
and auditory surveillance of another individual who has a current background check approval issued
by the office.
- 148 (16) "Director" means the director of the office.
- 149 (17) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 150 (18) "Domestic violence treatment program" means a nonresidential program designed to provide
psychological treatment and educational services to perpetrators and victims of domestic violence.

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- 153 (19) "Elder adult" means a person 65 years old or older.
- 154 (20) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.
- 158 (21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.
- 160 (22) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.
- 161 (23) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- 162 (24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.
- 163 (25)
- . (a) "Human services program" means:
- 164 (i) a foster home;
- 165 (ii) a therapeutic school;
- 166 (iii) a youth program;
- 167 (iv) an outdoor youth program;
- 168 (v) a residential treatment program;
- 169 (vi) a residential support program;
- 170 (vii) a resource family home;
- 171 (viii) a recovery residence; or
- 172 (ix) a facility or program that provides:
- 173 (A) adult day care;
- 174 (B) day treatment;
- 175 (C) outpatient treatment;
- 176 (D) domestic violence treatment;
- 177 (E) child-placing services;
- 178 (F) social detoxification; or
- 179 (G) any other human services that are required by contract with the department to be licensed with the department.
- 181 (b) "Human services program" does not include:
- 182 (i) a boarding school;

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- 183 (ii) a ~~residential, vocational and life~~ residential vocational or life skills program, as defined in Section
13-53-102; or
- 185 (iii) a short-term relief care provider.
- 186 (26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 187 (27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
- 188 (28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 189 (29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an
individual who:
- 191 (a) cannot live independently or in a less restrictive environment; and
- 192 (b) requires, without the individual's consent or control, the use of locked doors to care for the
individual.
- 194 (30) "Licensee" means an individual or a human services program licensed by the office.
- 195 (31) "Local government" means a city, town, or county.
- 196 (32) "Minor" means child.
- 197 (33) "Office" means the Office of Licensing within the department.
- 198 (34) "Outdoor youth program" means a program that provides:
- 199 (a) services to a child that has:
- 200 (i) a chemical dependency; or
- 201 (ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or
behavioral;
- 203 (b) a 24-hour outdoor group living environment; and
- 204 (c)
- . (i) regular therapy, including group, individual, or supportive family therapy; or
- 205 (ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor
behavioral healthcare.
- 207 (35) "Outpatient treatment" means individual, family, or group therapy or counseling designed to
improve and enhance social or psychological functioning for those whose physical and emotional
status allows them to continue functioning in their usual living environment.
- 211 (36) "Practice group" or "group practice" means two or more health care providers legally organized as
a partnership, professional corporation, or similar association, for which:

213

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- (a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and
- 216 (b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.
- 218 (37) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.
- 220 (38)
- . (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:
- 222 (i) provides a supervised living environment for individuals recovering from a substance use disorder;
- 224 (ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;
- 226 (iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;
- 228 (iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or
- 230 (v)
- . (A) receives public funding; or
- 231 (B) is run as a business venture, either for-profit or not-for-profit.
- 232 (b) "Recovery residence" does not mean:
- 233 (i) a residential treatment program;
- 234 (ii) residential support program;
- 235 (iii) a residential vocational or life skills program; or
- 236 [~~(iii)~~] (iv) a home, residence, or facility, in which:
- 237 (A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;
- 241 (B) residents equitably share rent and housing-related expenses; and
- 242

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(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

245 (39) "Regular business hours" means:

246 (a) the hours during which services of any kind are provided to a client; or

247 (b) the hours during which a client is present at the facility of a licensee.

248 (40)

. (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

252 (b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

254 (i) emotional;

255 (ii) psychological;

256 (iii) developmental; or

257 (iv) behavioral.

258 (c) Treatment is not a necessary component of a residential support program.

259 (d) "Residential support program" does not include:

260 (i) a recovery residence; or

261 (ii) a program that provides residential services that are performed:

262 (A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

264 (B) in a facility that serves fewer than four individuals.

265 (41)

. (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

270 (b) "Residential treatment" does not include a:

271 (i) boarding school;

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- 272 (ii) foster home; or
273 (iii) recovery residence.
- 274 (42) "Residential treatment program" means a program or facility that provides:
275 (a) residential treatment; or
276 (b) intermediate secure treatment.
- 277 (43) "Seclusion" means the involuntary confinement of an individual in a room or an area:
278 (a) away from the individual's peers; and
279 (b) in a manner that physically prevents the individual from leaving the room or area.
- 280 (44) "Short-term relief care provider" means an individual who:
281 (a) provides short-term and temporary relief care to a foster parent:
282 (i) for less than six consecutive nights; and
283 (ii) in the short-term relief care provider's home;
284 (b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the
foster parent;
286 (c) is direct access qualified, as that term is defined in Section 26B-2-120;
287 (d) has been approved to provide short-term relief care by the department;
288 (e) is not reimbursed by the department for the temporary relief care provided; and
289 (f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the
foster child.
- 291 (45) "Social detoxification" means short-term residential services for persons who are experiencing or
have recently experienced drug or alcohol intoxication, that are provided outside of a health care
facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:
295 (a) room and board for persons who are unrelated to the owner or manager of the facility;
296 (b) specialized rehabilitation to acquire sobriety; and
297 (c) aftercare services.
- 298 (46) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder"
is defined in Section 26B-5-501.
- 300 (47) "Substance abuse treatment program" or "substance use disorder treatment program" means a
program:
302 (a) designed to provide:
303 (i) specialized drug or alcohol treatment;

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- 304 (ii) rehabilitation; or
305 (iii) habilitation services; and
306 (b) that provides the treatment or services described in Subsection (47)(a) to persons with:
308 (i) a diagnosed substance use disorder; or
309 (ii) chemical dependency disorder.
- 310 (48) "Therapeutic school" means a residential group living facility:
311 (a) for four or more individuals that are not related to:
312 (i) the owner of the facility; or
313 (ii) the primary service provider of the facility;
314 (b) that serves students who have a history of failing to function:
315 (i) at home;
316 (ii) in a public school; or
317 (iii) in a nonresidential private school; and
318 (c) that offers:
319 (i) room and board; and
320 (ii) an academic education integrated with:
321 (A) specialized structure and supervision; or
322 (B) services or treatment related to:
323 (I) a disability;
324 (II) emotional development;
325 (III) behavioral development;
326 (IV) familial development; or
327 (V) social development.
- 328 (49) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers,
sisters, uncles, or aunts.
- 330 (50) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or
physical impairment that substantially affects the person's ability to:
332 (a) provide personal protection;
333 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
334 (c) obtain services necessary for health, safety, or welfare;
335 (d) carry out the activities of daily living;

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- 336 (e) manage the adult's own resources; or
337 (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or
exploitation.
339 (51)
. (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health
services to minors that:
341 (i) serves adjudicated or nonadjudicated youth;
342 (ii) charges a fee for the program's services;
343 (iii) may provide host homes or other arrangements for overnight accommodation of the youth;
345 (iv) may provide all or part of the program's services in the outdoors;
346 (v) may limit or censor access to parents or guardians; and
347 (vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free
will.
349 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and
other such organizations.
351 (52)
. (a) "Youth transportation company" means any person that transports a child for payment to or from a
congregate care program in Utah.
353 (b) "Youth transportation company" does not include:
354 (i) a relative of the child;
355 (ii) a state agency; or
356 (iii) a congregate care program's employee who transports the child from the congregate care program
that employs the employee and returns the child to the same congregate care program.

671 Section 14. Section 26B-5-102 is amended to read:

672 **26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health**
-- Creation -- Responsibilities.

- 674 (1)
. (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions,
regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law
that were previously vested in the Division of Substance Abuse and Mental Health within the
department, under the administration and general supervision of the executive director.

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- 679 (b) The division is the substance abuse authority and the mental health authority for this state.
- 681 (c) There is created the Office of Substance Use and Mental Health within the division.
- 682 (d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to
the office by the executive director.
- 684 (2) The division shall:
- 685 (a)
- . (i) educate the general public regarding the nature and consequences of substance use by promoting
school and community-based prevention programs;
- 687 (ii) render support and assistance to public schools through approved school-based substance abuse
education programs aimed at prevention of substance use;
- 689 (iii) promote or establish programs for the prevention of substance use within the community setting
through community-based prevention programs;
- 691 (iv) cooperate with and assist treatment centers, recovery residences, and other organizations that
provide services to individuals recovering from a substance use disorder, by identifying and
disseminating information about effective practices and programs;
- 695 (v) promote integrated programs that address an individual's substance use, mental health, and physical
health;
- 697 (vi) establish and promote an evidence-based continuum of screening, assessment, prevention,
treatment, and recovery support services in the community for individuals with a substance use
disorder or mental illness;
- 700 (vii) evaluate the effectiveness of programs described in this Subsection (2);
- 701 (viii) consider the impact of the programs described in this Subsection (2) on:
- 702 (A) emergency department utilization;
- 703 (B) jail and prison populations;
- 704 (C) the homeless population; and
- 705 (D) the child welfare system; and
- 706 (ix) promote or establish programs for education and certification of instructors to educate individuals
convicted of driving under the influence of alcohol or drugs or driving with any measurable
controlled substance in the body;
- 709 (b)
- . (i) collect and disseminate information pertaining to mental health;

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- 710 (ii) provide direction over the state hospital including approval of the state hospital's budget,
administrative policy, and coordination of services with local service plans;
- 713 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
educate families concerning mental illness and promote family involvement, when appropriate, and
with patient consent, in the treatment program of a family member;
- 717 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
direct that an individual receiving services through a local mental health authority or the Utah State
Hospital be informed about and, if desired by the individual, provided assistance in the completion
of a declaration for mental health treatment in accordance with Section 26B-5-313; and
- 722 (v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act, that:
- 724 (A) create a certification for targeted case management;
- 725 (B) establish training and certification requirements;
- 726 (C) specify the types of services each certificate holder is qualified to provide;
- 727 (D) specify the type of supervision under which a certificate holder is required to operate; and
- 729 (E) specify continuing education and other requirements for maintaining or renewing certification;
- 731 (c)
- . (i) consult and coordinate with local substance abuse authorities and local mental health authorities
regarding programs and services;
- 733 (ii) provide consultation and other assistance to public and private agencies and groups working on
substance use and mental health issues;
- 735 (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social
agencies, public health authorities, law enforcement agencies, education and research organizations,
and other related groups;
- 738 (iv) promote or conduct research on substance use and mental health issues, and submit to the governor
and the Legislature recommendations for changes in policy and legislation;
- 741 (v) receive, distribute, and provide direction over public funds for substance use and mental health
services;
- 743 (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental
health authorities;
- 745 (vii) examine expenditures of local, state, and federal funds;

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- 746 (viii) monitor the expenditure of public funds by:
- 747 (A) local substance abuse authorities;
- 748 (B) local mental health authorities; and
- 749 (C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;
- 753 (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;
- 757 (x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;
- 760 (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:
- 762 (A) a statewide comprehensive continuum of substance use services;
- 763 (B) a statewide comprehensive continuum of mental health services;
- 764 (C) services result in improved overall health and functioning;
- 765 (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;
- 769 (E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and
- 771 (F) appropriate expenditure of public funds;
- 772 (xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;
- 777 (xiii) monitor and ensure compliance with division rules and contract requirements; and
- 779 (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

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- (d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;
- 785 (e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;
- 788 (f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:
- 791 (i) a review and determination regarding whether:
- 792 (A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and
- 796 (B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and
- 799 (ii) items determined by the division to be necessary and appropriate;
- 800 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 802 (h)
- . (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:
- 804 (A) a substance use disorder;
- 805 (B) a mental health disorder; or
- 806 (C) a substance use disorder and a mental health disorder;
- 807 (ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;
- 809 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 811 (A) establish training and certification requirements for a peer support specialist;
- 812 (B) specify the types of services a peer support specialist is qualified to provide;
- 813 (C) specify the type of supervision under which a peer support specialist is required to operate; and
- 815

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- (D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and
- 817 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 819 (A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and
- 821 (B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;
- 823 (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:
- 825 (i) pretrial services and the resources needed to reduce recidivism;
- 826 (ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and
- 828 (iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;
- 830 (j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;
- 836 (k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:
- 839 (i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and
- 841 (ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);
- 844 (l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

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- (m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;
- 850 (n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);
- 854 (o) publish the following on the division's website:
- 855 (i) the performance goals and outcome measurements described in Subsection (2)(j); and
- 857 (ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and [~~residential, vocational and life skills~~] residential vocational or life skills programs, as defined in Section 13-53-102; and
- 861 (p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:
- 864 (i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;
- 866 (ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and
- 868 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.
- 871 (3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:
- 875 (a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:
- 879 (i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:
- 882 (A) information on safe handling, storage, and use of firearms in a home environment;
- 884 (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

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- 886 (C) information about suicide prevention awareness; and
- 887 (D) information about the availability of firearm safety packets;
- 888 (ii) procure cable-style gun locks for distribution under this section;
- 889 (iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and
- 891 (iv) create a suicide prevention education course that:
- 892 (A) provides information for distribution regarding firearm safety education;
- 893 (B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and
- 895 (C) provides information regarding crisis intervention resources;
- 896 (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:
- 898 (i) health care providers, including emergency rooms;
- 899 (ii) mobile crisis outreach teams;
- 900 (iii) mental health practitioners;
- 901 (iv) other public health suicide prevention organizations;
- 902 (v) entities that teach firearm safety courses;
- 903 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and
- 905 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- 906 (c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and
- 910 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:
- 912 (i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;
- 914 (ii) procuring the cable-style gun locks for distribution; and
- 915 (iii) administering the rebate program.
- 916 (4)

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- (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.
- 920 (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.
- 923 (5)
- . (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.
- 928 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.
- 931 (6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.
- 936 (7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.
- 939 (8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:
- 942 (a) use of public funds;
- 943 (b) oversight of public funds; and
- 944 (c) governance of substance use disorder and mental health programs and services.
- 945 (9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.
- 947 (10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:
- 950

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- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- 952 (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.
- 954 (11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:
- 956 (a) provide coordination between a local education agency and local mental health authority;
- 958 (b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and
- 960 (c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

962 Section 15. Section 63M-7-204 is amended to read:

963 **63M-7-204. Duties of commission.**

- 964 (1) The commission shall:
- 965 (a) promote the commission's purposes as enumerated in Section 63M-7-201;
- 966 (b) promote the communication and coordination of all criminal and juvenile justice agencies;
- 968 (c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;
- 971 (d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;
- 977 (e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;
- 979 (f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;
- 981 (g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

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- 984 (h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;
- 986 (i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;
- 989 (j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;
- 991 (k) provide a comprehensive criminal justice plan annually;
- 992 (l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;
- 994 (m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:
- 997 (i) developing and maintaining common data standards for use by all state criminal justice agencies;
- 999 (ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;
- 1002 (iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and
- 1005 (iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);
- 1008 (n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;
- 1010 (o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;
- 1012 (p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l);
- 1016 (q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;
- 1020 (r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;
- 1022

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- (s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;
- 1025 (t) allocate and administer grants, from money made available, for pilot qualifying education programs;
- 1027 (u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;
- 1030 (v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:
 - 1033 (i) ensuring oversight and accountability;
 - 1034 (ii) supporting local corrections systems;
 - 1035 (iii) improving and expanding reentry and treatment services; and
 - 1036 (iv) strengthening probation and parole supervision;
- 1037 (w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:
 - 1039 (i) separates the data provided under Section 13-53-111 by each [~~residential, vocational and life skills~~] residential vocational or life skills program; and
 - 1041 (ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;
- 1043 (x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;
- 1047 (y) receive, compile, and publish on the commission's website the data provided under:
 - 1048 (i) Section 53-25-202;
 - 1049 (ii) Section 53-25-301; and
 - 1050 (iii) Section 53-25-401;
- 1051 (z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;
- 1055 (aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if

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appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

1060 (bb) accept public comment.

1061 (2)

. (a) The commission may designate an entity to perform the duties described in this part.

1063 (b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

1067 (3) in fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

1071 Section 16. Section 64-13-21 is amended to read:

1072 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.**

1075 (1)

. (a) The department, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:

1077 (i)

. (A) is placed on probation by a court;

1078 (B) is released on parole by the Board of Pardons and Parole; or

1079 (C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and

1081 (ii) has been convicted of:

1082 (A) a felony;

1083 (B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or

1085 (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the department is ordered by a court to supervise the offender under Section 77-18-105.

1088 (b) If a sentenced offender participates in substance use treatment or a [~~residential, vocational and life skills~~] residential vocational or life skills program, as defined in Section 13-53-102, while under

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supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

- 1093 (c) The department shall establish standards for:
- 1094 (i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and
- 1098 (ii) the monitoring described in Subsection (1)(b).
- 1099 (2) The department shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:
- 1103 (a) sanctions to be used in response to a violation of the terms of probation or parole; and
- 1104 (b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.
- 1108 (3) The department shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1 to facilitate the department's prompt and appropriate response to an offender's:
- 1111 (a) compliance with the terms of probation or parole; or
- 1112 (b) positive conduct that exceeds those terms.
- 1113 (4)
- . (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.
- 1119 (b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.
- 1121 (5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

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- 1124 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the
conditions of the parole or probation agreement;
- 1126 (b) investigating or apprehending any offender who has escaped from the custody of the department or
absconded from supervision;
- 1128 (c) supervising any offender during transportation; or
- 1129 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 1130 (6)
- . (a)
- . (i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole.
- 1132 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon
a showing by the offender that imposition would create a substantial hardship or if the offender
owes restitution to a victim.
- 1135 (b)
- . (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the
circumstances under which an offender may request a hearing.
- 1139 (ii) In determining whether the imposition of the supervision fee would constitute a substantial
hardship, the department shall consider the financial resources of the offender and the burden that
the fee would impose, with regard to the offender's other obligations.
- 1143 (7)
- . (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)
(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program
allowing an offender to earn a reduction credit of 30 days from the offender's period of probation
or parole for each month the offender complies with the terms of the offender's probation or parole
agreement, including the case action plan.
- 1149 (b)
- . (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or
after July 1, 2026, the department shall establish a program, consistent with the adult sentencing
and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an
offender that maintains eligible employment, as defined in Section 64-13g-101.

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- 1158 (ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.
- 1161 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:
 - 1162 (A) the offender presents a substantial risk to public safety;
 - 1162 (B) termination would prevent the offender from completing risk reduction programming or treatment; or
 - 1164 (C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.
- 1167 (iv) This Subsection (7)(b) does not prohibit the department, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.
- 1171 (c) The department shall:
 - 1172 (i) maintain a record of credits earned by an offender under this Subsection (7); and
 - 1173 (ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).
- 1176 (d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).
- 1179 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.
- 1185 (f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:
 - 1187 (i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

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- 1191 (ii) the average number of credits earned by those offenders who earned credits;
- 1192 (iii) the number of offenders who earned credits by county of residence while on probation or parole;
- 1194 (iv) the cost savings associated with sentencing reform programs and practices; and
- 1195 (v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

1197 Section 17. Section 76-3-402 is amended to read:

1198 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

1199 (1) As used in this section:

1200 (a) "Lower degree of offense" includes an offense for which:

1201 (i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

1203 (ii) the court removes the statutory enhancement in accordance with this section.

1204 (b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

1206 (c)

. (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

1208 (ii) "Rehabilitation program" includes:

1209 (A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

1211 (B) a [~~residential, vocational, and life skills~~] residential vocational or life skills program, as that term is defined in Section 13-53-102;

1213 (C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

1215 (D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

1217 (E) a youth program, as that term is defined in Section 26B-2-101;

1218 (F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

1220 (G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

1222 (H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

1224 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

1226 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

1227 (f)

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- . (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.
- 1229 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:
- 1231 (A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or
- 1233 (B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.
- 1235 (2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:
- 1238 (a) takes into account:
- 1239 (i) the nature and circumstances of the offense of which the defendant was found guilty; and
- 1241 (ii) the history and character of the defendant;
- 1242 (b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and
- 1244 (c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.
- 1246 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:
- 1248 (a) after the defendant is successfully discharged from probation or parole for the conviction; and
- 1250 (b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 1252 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 1254 (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;
- 1257 (b)
- . (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or
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- (ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;
- 1262 (c) the defendant is not convicted of a serious offense during the time period described in Subsection (4) (b);
- 1264 (d) there are no criminal proceedings pending against the defendant;
- 1265 (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 1267 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 1269 (g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 1271 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 1273 (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;
- 1275 (b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;
- 1277 (c) the defendant is not convicted of a serious offense during the time period described in Subsection (5) (b);
- 1279 (d) there are no criminal proceedings pending against the defendant;
- 1280 (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 1282 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 1284 (g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 1286 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 1288 (a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;
- 1290 (b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);
- 1292 (c) there are no criminal proceedings pending against the defendant;

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- 1293 (d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 1295 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 1297 (f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 1299 (7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 1301 (a) the court shall consider:
- 1302 (i) the nature, circumstances, and severity of the offense for which a reduction is sought;
- 1304 (ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and
- 1306 (iii) any input from a victim of the offense; and
- 1307 (b) the court may consider:
- 1308 (i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;
- 1310 (ii) the defendant's criminal history;
- 1311 (iii) the defendant's employment and community service history;
- 1312 (iv) whether the defendant participated in a rehabilitative program and successfully completed the program;
- 1314 (v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;
- 1316 (vi) whether the level of the offense has been reduced by law after the defendant's conviction;
- 1318 (vii) any potential impact that the reduction would have on public safety; or
- 1319 (viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.
- 1321 (8)
- . (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:
- 1323 (i) notice is provided to the other party;
- 1324 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

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- 1326 (iii) a hearing is held if a hearing is requested by either party.
- 1327 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).
- 1330 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 1333 (d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.
- 1336 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.
- 1339 (10)
- . (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.
- 1342 (b) An offense may not be reduced under this section by more than two degrees.
- 1343 (11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~] Title 77, Chapter 40a, Expungement of Criminal Records.
- 1346 (12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:
- 1348 (a) the reduction is specifically precluded by law; or
- 1349 (b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.
- 1351 (13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.
- 1353 (14)
- . (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.
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- (b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

1361 Section 18. **Effective date.**

This bill takes effect on May 7, 2025.

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