

Ryan D. Wilcox proposes the following substitute bill:

Criminal Offenses Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

▸ amends the offense of sexual extortion;

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

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

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

▸ increases penalties for an individual who:

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

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

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

Amendments; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 This bill provides coordination clauses.

31 **Utah Code Sections Affected:**

32 AMENDS:

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

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

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

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

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

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

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

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

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

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

49 **76-6-409**, as last amended by Laws of Utah 2023, Chapter 111

50 **76-6-409.3**, as last amended by Laws of Utah 2023, Chapter 111

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

53 **76-6-506**, as last amended by Laws of Utah 2023, Chapter 111

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

56 **76-6-608**, as last amended by Laws of Utah 2023, Chapter 111

57 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96

58 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15

59 **76-10-1302**, as last amended by Laws of Utah 2023, Chapter 111

60 **76-10-1303**, as last amended by Laws of Utah 2024, Chapter 140

61 **76-10-1304**, as last amended by Laws of Utah 2018, Chapter 308

62 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96

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

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

65 ENACTS:

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

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

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

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

70

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

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

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

74 (1) As used in this section:

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

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

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

80 (ii) [~~each of the other persons~~] each of the other individuals:

81 (A) was physically present; and

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

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

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

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

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

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

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

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

- 97 doubt that the [person] actor acted:
- 98 (a) in concert with [~~three~~] two or more [persons] individuals;
- 99 (b) for the benefit of, at the direction of, or in association with [~~any~~] a criminal street
- 100 gang [~~as defined in Section 76-9-802~~] or other organized criminal group; or
- 101 (c) to gain recognition, acceptance, membership, or increased status with a criminal
- 102 street gang [~~as defined in Section 76-9-802~~] or other organized criminal group.
- 103 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be
- 104 subscribed upon the information or indictment notice that the [defendant] actor is subject
- 105 to the enhanced penalties provided under this section.
- 106 [~~(4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:]~~
- 107 [~~(i) for a class B misdemeanor, as a class A misdemeanor; and]~~
- 108 [~~(ii) for a class A misdemeanor, as a third-degree felony.]~~
- 109 [~~(b) The following offenses are subject to Subsection (4)(a):]~~
- 110 [~~(i) criminal mischief as described in Section 76-6-106;]~~
- 111 [~~(ii) property damage or destruction as described in Section 76-6-106.1; and]~~
- 112 [~~(iii) defacement by graffiti as described in Section 76-6-107.]~~
- 113 [~~(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:]~~
- 114 [~~(i) for a class B misdemeanor, as a class A misdemeanor;]~~
- 115 [~~(ii) for a class A misdemeanor, as a third-degree felony; and]~~
- 116 [~~(iii) for a third-degree felony, as a second-degree felony.]~~
- 117 [~~(b) The following offenses are subject to Subsection (5)(a):]~~
- 118 [~~(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);]~~
- 119 [~~(ii) any offense of obstructing government operations under Chapter 8, Part 3,~~
- 120 ~~Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,~~
- 121 ~~76-8-307, 76-8-308, and 76-8-312;]~~
- 122 [~~(iii) tampering with a witness under Section 76-8-508;]~~
- 123 [~~(iv) retaliation against a witness, victim, or informant, or other violation of Section~~
- 124 ~~76-8-508.3;]~~
- 125 [~~(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]~~
- 126 [~~(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section~~
- 127 ~~76-8-509;]~~
- 128 [~~(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]~~
- 129 [~~(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.]~~
- 130 [~~(6)~~] (4)[(a)] For an offense listed in Subsection [~~(6)(b)~~] (5), [a person] an actor may be

131 charged as follows:

132 ~~[(i)]~~ (a) for a class B misdemeanor, as a class A misdemeanor;

133 ~~[(ii)]~~ (b) for a class A misdemeanor, as a third degree felony;

134 ~~[(iii)]~~ (c) for a third degree felony, as a second degree felony; and

135 ~~[(iv)]~~ (d) for a second degree felony, as a first degree felony.

136 ~~[(b)]~~ (5) The ~~[following offenses are subject to Subsection (6)(a)]~~ offenses referred to in
137 Subsection (2) are:

138 (a) criminal solicitation of a minor as described in Section 76-4-205;

139 ~~[(i)]~~ (b) ~~[assault and related offenses under]~~ an offense described in Chapter 5, Part 1,
140 Assault and Related Offenses;

141 ~~[(ii)]~~ (c) ~~[any criminal homicide offense under]~~ an offense described in Chapter 5, Part 2,
142 Criminal Homicide;

143 ~~[(iii)]~~ (d) ~~[kidnapping and related offenses under]~~ a felony offense described in Chapter 5,
144 Part 3, Kidnapping, Trafficking, and Smuggling;

145 ~~[(iv)]~~ (e) ~~[any felony sexual offense under]~~ a felony offense described in Chapter 5, Part
146 4, Sexual Offenses;

147 ~~[(v)]~~ sexual exploitation of a minor as defined in Section 76-5b-201;

148 ~~[(vi)]~~ aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

149 (f) an offense described in Chapter 6, Part 1, Property Destruction;

150 ~~[(vii)]~~ (g) robbery as described in Section 76-6-202;

151 (h) ~~[-and-]aggravated robbery [under Chapter 6, Part 3, Robbery; and]~~ as described in
152 Section 76-6-203;

153 (i) burglary as described in Subsection 76-6-202(3)(b);

154 (j) aggravated burglary as described in Section 76-6-203;

155 (k) an offense described in Chapter 6, Part 4, Theft;

156 (l) an offense described in Chapter 6, Part 6, Retail Theft;

157 (m) an offense described in Chapter 6, Part 11, Identity Fraud Act;

158 (n) an offense described in Chapter 10, Part 5, Weapons;

159 (o) a felony violation of aiding prostitution as described in Section 76-10-1304;

160 (p) exploiting prostitution as described in Section 76-10-1305;

161 ~~[(viii)]~~ (q) aggravated exploitation of prostitution under Section 76-10-1306[-];

162 (r) communications fraud as described in Section 76-10-1801;

163 (s) an offense described in Chapter 10, Part 19, Money Laundering and Currency
164 Transaction Reporting Act;

165 (t) burglary of a research facility as described in Section 76-10-2002; and
 166 (u) transporting or harboring aliens as described in Section 76-10-2901.
 167 [~~(7)~~] (6) [~~The~~] A court may, if not otherwise prohibited from doing so by another section of
 168 the code, suspend a sentence imposed under [~~Subsection (4), (5), or (6)~~] may be
 169 suspended] this section and place the [~~individual placed~~] actor on probation[~~for the~~
 170 higher level of offense].

171 [~~(8)~~] (7) It is not a bar to imposing the enhanced penalties under this section that the [~~persons~~]
 172 individuals with whom the actor is alleged to have acted in concert are not identified,
 173 apprehended, charged, or convicted, or that any of those [~~persons~~] individuals are
 174 charged with or convicted of a different or lesser offense.

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

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

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

- 178 (i) "Adult" means an individual 18 years old or older.
- 179 (ii) "Child" means any individual under the age of 18.
- 180 (iii) "Intimate image" means the same as that term is defined in Section 76-5b-203.
- 181 (iv) "Position of special trust" means the same as that term is defined in Section
 182 76-5-404.1.
- 183 (v) "Sexually explicit conduct" means the same as that term is defined in Section
 184 76-5b-203.
- 185 (vi) "Simulated sexually explicit conduct" means the same as that term is defined in
 186 Section 76-5b-203.

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

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

- 189 (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit
 190 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
 191 distribute an image, video, or other recording of any individual naked or engaged
 192 in sexually explicit conduct, communicates by any means a threat:
 - 193 (A) to the victim's person, property, or reputation; or
 - 194 (B) to distribute an intimate image or video of the victim;
- 195 (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit
 196 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
 197 distribute any image, video, or other recording of any individual naked or engaged
 198 in sexually explicit conduct by means of a threat:

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

- 233 two-year age gap between the actor and the victim.
- 234 (c) An actor commits a separate offense under this section:
- 235 (i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and
- 236 (ii) for each separate time the actor subjects a victim to the offense outlined
- 237 Subsection (2)(a).
- 238 (d) This section does not preclude an actor from being charged and convicted of a
- 239 separate criminal act if the actor commits the separate criminal act while the
- 240 individual violates or attempts to violate this section.
- 241 (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to
- 242 liability under this section related to content provided by a user of the interactive
- 243 computer service.

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

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

246 As used in this part:

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

- 267 that amount may be increased or reloaded in exchange for payment;
- 268 (b) activated or inactivated; and
- 269 (c) redeemable upon presentation:
- 270 (i) by a consumer at a single merchant or group of affiliated merchants; or
- 271 (ii) at multiple unaffiliated merchants for goods or services within the payment card
- 272 network.
- 273 ~~[(2)]~~ (3) "Livestock guardian dog" means the same as that term is defined in Section
- 274 76-6-111.
- 275 ~~[(3)]~~ (4) "Obtain" means, in relation to property, to bring about a transfer of possession or of
- 276 some other legally recognized interest in property, whether to the obtainer or another; in
- 277 relation to labor or services, to secure performance thereof; and in relation to a trade
- 278 secret, to make any facsimile, replica, photograph, or other reproduction.
- 279 ~~[(4)]~~ (5) "Obtain or exercise unauthorized control" means conduct originally defined or
- 280 known as common-law larceny by trespassory taking, larceny by conversion, larceny by
- 281 bailee, or embezzlement.
- 282 ~~[(5)]~~ (6)(a) "Property" means anything of value[;] .
- 283 (b) "Property" includes:
- 284 (i) ~~[including-]~~real estate[;] ;
- 285 (ii) [-]tangible and intangible personal property[;] ;
- 286 (iii) [-]captured or domestic animals and birds[;] ;
- 287 (iv) [-]written instruments or other writings representing or embodying rights
- 288 concerning real or personal property, labor, services, or otherwise containing
- 289 anything of value to the owner[;] ;
- 290 (v) [-]commodities of a public utility nature such as telecommunications, gas,
- 291 electricity, steam, or water, and trade secrets, meaning the whole or any portion of
- 292 any scientific or technical information, design, process, procedure, formula, or
- 293 invention which the owner intends to be available only to persons selected by the
- 294 owner[;] ; and
- 295 (vi) a gift card.
- 296 ~~[(6)]~~ (7) "Purpose to deprive" means to have the conscious object:
- 297 (a) to withhold property permanently or for so extended a period or to use under such
- 298 circumstances that a substantial portion of its economic value, or of the use and
- 299 benefit thereof, would be lost;
- 300 (b) to restore the property only upon payment of a reward or other compensation; or

301 (c) to dispose of the property under circumstances that make it unlikely that the owner
302 will recover it.

303 Section 4. Section **76-6-404** is amended to read:

304 **76-6-404 . Theft -- Elements.**

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

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

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

309 (a) a second degree felony if the:

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

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

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

313 (b) a third degree felony if:

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

315 (ii) the property is:

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

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

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

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

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

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

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

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

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

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

- 335 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 336 (v) the actor has been previously convicted of a felony violation of any of the
- 337 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if the
- 338 prior offense was committed within 10 years before the date of the current
- 339 conviction or the date of the offense upon which the current conviction is based;
- 340 (c) a class A misdemeanor if:
- 341 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 342 (ii)(A) the value of property is less than \$500;
- 343 (B) the theft occurs on a property where the offender has committed any theft
- 344 within the past five years; and
- 345 (C) the offender has received written notice from the merchant prohibiting the
- 346 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 347 (iii) the actor has been twice before convicted of any of the offenses listed in
- 348 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if each prior offense was
- 349 committed within 10 years before the date of the current conviction or the date of
- 350 the offense upon which the current conviction is based; or
- 351 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 352 theft is not an offense under Subsection (3)(c).

353 Section 5. Section **76-6-404.5** is amended to read:

354 **76-6-404.5 . Unauthorized possession of property.**

- 355 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 356 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
- 357 unauthorized control over another person's property, without the consent of the
- 358 property's owner or legal custodian, and with the intent to temporarily appropriate,
- 359 possess, or use the property or to temporarily deprive the property's owner or legal
- 360 custodian of possession of the property.
- 361 (3) A violation of Subsection (2) is:
- 362 (a) a third degree felony if:
- 363 (i) the value of the property is or exceeds \$5,000;
- 364 (ii) the property is a firearm or an operable motor vehicle; or
- 365 (iii) the property is taken from the person of another;
- 366 (b) a class A misdemeanor if:
- 367 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 368 (ii) the property is:

- 369 (A) a catalytic converter as defined under Section 76-6-1402; or
370 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402
371 if the value is less than \$5,000 and the suspect metal is made of or contains
372 aluminum or copper and is not a lead battery;
- 373 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
374 convicted of any of the following offenses, if each prior offense was committed
375 within 10 years before the date of the current conviction or the date of the offense
376 upon which the current conviction is based and at least one of those convictions is
377 for a class A misdemeanor:
- 378 (A) any theft, any robbery, or any burglary with intent to commit theft;
379 (B) any offense under Part 5, Fraud;[-or]
380 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
381 (D) any offense in another jurisdiction, including a state, federal, or military court,
382 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
383 (B), or (C);
- 384 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
385 (B) the unauthorized possession of property occurs on a property where the
386 offender has committed any theft within the past five years; and
387 (C) the offender has received written notice from the merchant prohibiting the
388 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 389 (v) the actor has been previously convicted of a felony violation of any of the
390 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
391 prior offense was committed within 10 years before the date of the current
392 conviction or the date of the offense upon which the current conviction is based;
- 393 (c) a class B misdemeanor if:
- 394 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
395 (ii)(A) the value of property is less than \$500;
396 (B) the unauthorized possession of property occurs on a property where the
397 offender has committed any theft within the past five years; and
398 (C) the offender has received written notice from the merchant prohibiting the
399 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 400 (iii) the actor has been twice before convicted of any of the offenses listed in
401 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
402 committed within 10 years before the date of the current conviction or the date of

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

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

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

- 413 (1)(a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
- 414 matter, or substance that is used in an internal combustion engine for the generation
- 415 of power.
- 416 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 417 (2) An actor commits theft of motor vehicle fuel if the actor:
- 418 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
- 419 retail sale when motor fuel has been dispensed into:
- 420 (i) the fuel tank of the motor vehicle; or
- 421 (ii) any other container that is then removed from the premises by means of the motor
- 422 vehicle; and
- 423 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
- 424 operator of the premises of the motor vehicle fuel without making full payment for
- 425 the fuel.
- 426 (3) A violation of Subsection (2) is:
- 427 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;
- 428 (b) a third degree felony if:
- 429 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000;[~~or~~]
- 430 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been
- 431 twice before convicted of any of the following offenses, if each prior offense was
- 432 committed within 10 years before the date of the current conviction or the date of
- 433 the offense upon which the current conviction is based and at least one of those
- 434 convictions is for a class A misdemeanor:
- 435 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 436 (B) any offense under Part 5, Fraud;[~~or~~]

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

441 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
442 \$1,500;

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

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

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

451 (c) a class A misdemeanor if:

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

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

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

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

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

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

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

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

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

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

- 471 (1)(a) As used in this section, "puffing" means an exaggerated commendation of wares
 472 or worth in a communication addressed to an individual, group, or the public.
- 473 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 474 (2)(a) An actor commits theft by deception if the actor obtains or exercises control over
 475 property of another person:
- 476 (i) by deception; and
 477 (ii) with a purpose to deprive the other person of property.
- 478 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
 479 Subsection (2)(a)(ii) may occur at separate times.
- 480 (3) A violation of Subsection (2) is:
- 481 (a) a second degree felony if the:
- 482 (i) value of the property is or exceeds \$5,000; or
 483 (ii) property stolen is a firearm or an operable motor vehicle;
- 484 (b) a third degree felony if:
- 485 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 486 (ii) the property:
- 487 (A) is a catalytic converter as defined under Section 76-6-1402; or
 488 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
 489 if the value is less than \$5,000 and the suspect metal is made of or contains
 490 aluminum or copper and is not a lead battery;
- 491 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 492 convicted of any of the following offenses, if each prior offense was committed
 493 within 10 years before the date of the current conviction or the date of the offense
 494 upon which the current conviction is based and at least one of those convictions is
 495 for a class A misdemeanor:
- 496 (A) any theft, any robbery, or any burglary with intent to commit theft;
 497 (B) any offense under Part 5, Fraud;[-or]
 498 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 499 (D) any offense in another jurisdiction, including a state, federal, or military court,
 500 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 501 (B), or (C);
- 502 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
 503 (B) the theft occurs on a property where the offender has committed any theft
 504 within the past five years; and

- 505 (C) the offender has received written notice from the merchant prohibiting the
 506 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 507 (v) the actor has been previously convicted of a felony violation of any of the
 508 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
 509 prior offense was committed within 10 years before the date of the current
 510 conviction or the date of the offense upon which the current conviction is based;
- 511 (c) a class A misdemeanor if:
- 512 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 513 (ii)(A) the value of property is less than \$500;
- 514 (B) the theft occurs on a property where the offender has committed any theft
 515 within the past five years; and
- 516 (C) the offender has received written notice from the merchant prohibiting the
 517 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 518 (iii) the actor has been twice before convicted of any of the offenses listed in
 519 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
 520 committed within 10 years before the date of the current conviction or the date of
 521 the offense upon which the current conviction is based; or
- 522 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 523 theft is not an offense under Subsection (3)(c).
- 524 (4) Theft by deception does not occur when there is only:
- 525 (a) falsity as to matters having no pecuniary significance; or
- 526 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

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

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

- 529 (1)(a) As used in this section, extortion occurs when an actor threatens to:
- 530 (i) cause physical harm in the future to the person threatened, to any other person, or
 531 to property at any time;
- 532 (ii) subject the person threatened or any other person to physical confinement or
 533 restraint;
- 534 (iii) engage in other conduct constituting a crime;
- 535 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
 536 ridicule;
- 537 (v) reveal any information sought to be concealed by the person threatened;
- 538 (vi) testify, provide information, or withhold testimony or information with respect to

- 539 a person's legal claim or defense;
- 540 (vii) take action as an official against anyone or anything, or withhold official action,
- 541 or cause such action or withholding;
- 542 (viii) bring about or continue a strike, boycott, or other similar collective action to
- 543 obtain property that is not demanded or received for the benefit of the group that
- 544 the actor purports to represent; or
- 545 (ix) do any other act which would not in itself substantially benefit the actor but
- 546 which would harm substantially any other person with respect to that person's
- 547 health, safety, business, calling, career, financial condition, reputation, or personal
- 548 relationships.
- 549 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 550 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
- 551 property of another person by extortion and with a purpose to deprive the person of the
- 552 person's property.
- 553 (3) A violation of Subsection (2) is:
- 554 (a) a second degree felony if the:
- 555 (i) value of the property is or exceeds \$5,000;
- 556 (ii) property stolen is a firearm or an operable motor vehicle; or
- 557 (iii) property is stolen from the person of another;
- 558 (b) a third degree felony if:
- 559 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 560 (ii) the property is:
- 561 (A) a catalytic converter as defined under Section 76-6-1402; or
- 562 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 563 if the value is less than \$5,000 and the suspect metal is made of or contains
- 564 aluminum or copper and is not a lead battery;
- 565 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 566 convicted of any of the following offenses, if each prior offense was committed
- 567 within 10 years before the date of the current conviction or the date of the offense
- 568 upon which the current conviction is based and at least one of those convictions is
- 569 for a class A misdemeanor:
- 570 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 571 (B) any offense under Part 5, Fraud;[~~or~~]
- 572 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

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

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

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

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

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

585 (c) a class A misdemeanor if:

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

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

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

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

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

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

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

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

603 Section 9. Section **76-6-407** is amended to read:

604 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**

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

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

- 607 (a) obtains another person's property and knows the property to have been lost or
608 mislaid, or to have been delivered under a mistake as to the identity of the recipient
609 or as to the nature or amount of the property, without taking reasonable measures to
610 return the property to the owner; and
- 611 (b) has the purpose to deprive the owner of the property when the actor obtains the
612 property or at any time before taking the measures described in Subsection (2)(a).
- 613 (3) A violation of Subsection (2) is:
- 614 (a) a second degree felony if the:
- 615 (i) value of the property is or exceeds \$5,000;
- 616 (ii) property stolen is a firearm or an operable motor vehicle; or
- 617 (iii) property is stolen from the person of another;
- 618 (b) a third degree felony if:
- 619 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 620 (ii) the property is:
- 621 (A) a catalytic converter as defined under Section 76-6-1402; or
- 622 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
623 if the value is less than \$5,000 and the suspect metal is made of or contains
624 aluminum or copper and is not a lead battery;
- 625 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
626 convicted of any of the following offenses, if each prior offense was committed
627 within 10 years before the date of the current conviction or the date of the offense
628 upon which the current conviction is based and at least one of those convictions is
629 for a class A misdemeanor:
- 630 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 631 (B) any offense under Part 5, Fraud;[-~~or~~]
- 632 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 633 (D) any offense in another jurisdiction, including a state, federal, or military court,
634 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
635 (B), or (C);
- 636 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 637 (B) the theft occurs on a property where the offender has committed any theft
638 within the past five years; and
- 639 (C) the offender has received written notice from the merchant prohibiting the
640 offender from entering the property pursuant to Subsection 78B-3-108(4); or

- 641 (v) the actor has been previously convicted of a felony violation of any of the
 642 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 643 prior offense was committed within 10 years before the date of the current
 644 conviction or the date of the offense upon which the current conviction is based;
- 645 (c) a class A misdemeanor if:
- 646 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 647 (ii)(A) the value of property is less than \$500;
- 648 (B) the theft occurs on a property where the offender has committed any theft
 649 within the past five years; and
- 650 (C) the offender has received written notice from the merchant prohibiting the
 651 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 652 (iii) the actor has been twice before convicted of any of the offenses listed in
 653 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 654 committed within 10 years before the date of the current conviction or the date of
 655 the offense upon which the current conviction is based; or
- 656 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 657 theft is not an offense under Subsection (3)(c).

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

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

- 661 (1)(a) As used in this section:
- 662 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
 663 13-32a-102.
- 664 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
- 665 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 666 (iv) "Receives" means acquiring possession, control, title, or lending on the security
 667 of the property.
- 668 (v) "Scrap metal processor" means the same as that term is defined in Section
 669 76-6-1402.
- 670 (vi) "Secondhand actor" means:
- 671 (A) a pawnbroker;
- 672 (B) a person who has or operates a business dealing in or collecting used or
 673 secondhand merchandise or personal property; or
- 674 (C) an agent, employee, or representative of a pawnbroker or person who buys,

- 675 receives, or obtains property.
- 676 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 677 (2) An actor commits theft by receiving stolen property if the actor receives, retains, or
678 disposes of the property of another knowing that the property is stolen, or believing that
679 the property is probably stolen, or who conceals, sells, withholds, or aids in concealing,
680 selling, or withholding the property from the owner, knowing or believing the property
681 to be stolen, intending to deprive the owner of the property.
- 682 (3) A violation of Subsection (2) is:
- 683 (a) a second degree felony if:
- 684 (i) the value of the property is or exceeds \$5,000; or
685 (ii) the property is a firearm or an operable motor vehicle;
- 686 (b) a third degree felony if:
- 687 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
688 (ii) the property is:
- 689 (A) a catalytic converter as defined under Section 76-6-1402; or
690 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
691 if the value is less the \$5,000 and the suspect metal is made of or contains
692 aluminum or copper and is not a lead battery;
- 693 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
694 convicted of any of the following offenses, if each prior offense was committed
695 within 10 years before the date of the current conviction or the date of the offense
696 upon which the current conviction is based and at least one of those convictions is
697 for a class A misdemeanor:
- 698 (A) any theft, any robbery, or any burglary with intent to commit theft;
699 (B) any offense under Part 5, Fraud;[-~~or~~]
700 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
701 (D) any offense in another jurisdiction, including a state, federal, or military court,
702 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
703 (B), or (C); or
- 704 (iv) the actor has been previously convicted of a felony violation of any of the
705 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
706 prior offense was committed within 10 years before the date of the current
707 conviction or the date of the offense upon which the current conviction is based;
- 708 (c) a class A misdemeanor if:

- 709 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
710 (ii) the actor has been twice before convicted of any of the offenses listed in
711 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
712 committed within 10 years before the date of the current conviction or the date of
713 the offense upon which the current conviction is based; or
714 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
715 not an offense under Subsection (3)(c).
- 716 (4) Except as provided in Subsection (5), the knowledge or belief required under
717 Subsection (2) is presumed in the case of an actor who:
718 (a) is found in possession or control of other property stolen on a separate occasion; or
719 (b) has received other stolen property within the year preceding the receiving offense
720 charged.
- 721 (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of a
722 secondhand actor if the secondhand actor does not substantially comply with the
723 material requirements of Section 13-32a-104.
724 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
725 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the
726 coin dealer does not substantially comply with the requirements of Section
727 13-32a-104.5.
728 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
729 catalytic converter purchaser if the catalytic converter purchaser does not
730 substantially comply with the material requirements of Section 13-32a-104.7.
- 731 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a
732 scrap metal processor.
- 733 (7) This section does not preclude the admission of evidence in accordance with the Utah
734 Rules of Evidence.
- 735 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
736 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
737 attorney fees.
- 738 Section 11. Section **76-6-409** is amended to read:
739 **76-6-409 . Theft of service.**
- 740 (1)(a) As used in this section, "service" includes:
741 (i) labor, professional service, a public utility or transportation service, restaurant,
742 hotel, motel, tourist cabin, rooming house, and like accommodations, the

- 743 supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph
744 service, steam, admission to entertainment, an exhibition, a sporting event, or
745 other event for which a charge is made;
- 746 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
747 obtained by threat, force, or a form of deception not described in Section
748 76-6-409.3; and
- 749 (iii) telephone service, only if the service is obtained by threat, force, or a form of
750 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
751 76-6-409.9.
- 752 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 753 (2) An actor commits theft of service if:
- 754 (a) the actor, by deception, threat, force, or another means designed to avoid due
755 payment, obtains a service that the actor knows is available only for compensation; or
756 (b) the actor:
- 757 (i) has control over the disposition of another person's service; and
758 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
759 the actor is not entitled to the service; or
760 (B) diverts the other person's service to the benefit of a third person, knowing that
761 the third person is not entitled to the service.
- 762 (3) A violation of Subsection (2) is:
- 763 (a) a second degree felony if the value of the service is or exceeds \$5,000;
764 (b) a third degree felony if:
- 765 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
766 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
767 convicted of any of the following offenses, if each prior offense was committed
768 within 10 years before the date of the current conviction or the date of the offense
769 upon which the current conviction is based and at least one of those convictions is
770 for a class A misdemeanor:
- 771 (A) any theft, any robbery, or any burglary with intent to commit theft;
772 (B) any offense under Part 5, Fraud;[-or]
773 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
774 (D) any offense in another jurisdiction, including a state, federal, or military court,
775 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
776 (B), or (C);

- 777 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;
- 778 (B) the theft occurs on a property where the offender has committed any theft
- 779 within the past five years; and
- 780 (C) the offender has received written notice from the merchant prohibiting the
- 781 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 782 (iv) the actor has been previously convicted of a felony violation of any of the
- 783 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if the prior
- 784 offense was committed within 10 years before the date of the current conviction or
- 785 the date of the offense upon which the current conviction is based;
- 786 (c) a class A misdemeanor if:
- 787 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
- 788 (ii)(A) the value of the service is less than \$500;
- 789 (B) the theft occurs on a property where the offender has committed any theft
- 790 within the past five years; and
- 791 (C) the offender has received written notice from the merchant prohibiting the
- 792 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 793 (iii) the actor has been twice before convicted of any of the offenses listed in
- 794 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if each prior offense was
- 795 committed within 10 years before the date of the current conviction or the date of
- 796 the offense upon which the current conviction is based; or
- 797 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
- 798 an offense under Subsection (3)(c).

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

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

- 802 (1)(a) As used in this section:
- 803 (i) "Cable television service" means an audio, video, or data service provided for
- 804 payment by a cable television company over the cable company's cable system
- 805 facilities, but does not include the use of a satellite dish or antenna.
- 806 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
- 807 part of a building, whether alone or with others.
- 808 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or
- 809 tenant by the entirety of the whole or a part of a building and the property on
- 810 which the building is located.

- 811 (iv) "Person" means an individual, firm, partnership, corporation, company,
812 association, or other legal entity.
- 813 (v) "Tenant" includes a person, including the owner, who occupies the whole or part
814 of any building, whether alone or with others.
- 815 (vi) "Utility" means any public utility, municipally owned utility, or cooperative
816 utility that provides electricity, gas, water, or sewer, or any combination of
817 electricity, gas, water, or sewer, for sale to consumers.
- 818 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 819 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due
820 payment to the utility or cable television company, the actor makes gas, electricity,
821 water, sewer, or cable television available to a tenant or occupant, including to the actor,
822 by committing any of the following acts:
- 823 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or
824 other instrument used for conducting gas, electricity, water, sewer, or cable television
825 in a manner as permits the use of the gas, electricity, water, sewer, or cable television
826 without the gas, electricity, water, sewer, or cable television passing through a meter
827 or other instrument recording the usage for billing;
- 828 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
829 other instrument used for measuring quantities of gas, electricity, water, or sewer
830 service, or making or maintaining any modification or alteration to any device
831 installed with the authorization of a cable television company for the purpose of
832 intercepting or receiving any program or other service carried by the company that
833 the actor is not authorized by the company to receive;
- 834 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
835 otherwise restoring service when one or more of those utilities or cable service has
836 been lawfully disconnected or turned off by the provider of the utility or cable service;
- 837 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
838 device, or other part of a metering device for recording usage of gas, electricity,
839 water, or sewer service, or a security system for the recording device, or a cable
840 television control device;
- 841 (e) removing a metering device designed to measure quantities of gas, electricity, water,
842 or sewer service;
- 843 (f) transferring from one location to another location a metering device for measuring
844 quantities of public utility services of gas, electricity, water, or sewer service;

- 845 (g) changing the indicated consumption, jamming the measuring device, bypassing the
846 meter or measuring device with a jumper so that it does not indicate use or registers
847 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
848 service from the utility without the gas, electricity, water, or sewer service passing
849 through a metering device for measuring quantities of consumption for billing
850 purposes;
- 851 (h) using a metering device belonging to the utility that has not been assigned to the
852 location and installed by the utility;
- 853 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
854 utility service diversion, meter tampering, meter thefts, and unauthorized cable
855 television service;
- 856 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
857 television service without payment of all lawful compensation to the company
858 providing the service;
- 859 (k) making or maintaining a connection or connections, whether physical, electrical,
860 mechanical, acoustical, or by other means, with a cable, wire, component, or other
861 device used for the distribution of cable television services without authority from the
862 cable television company; or
- 863 (l) possessing without authority any device or printed circuit board designed in whole or
864 in part to receive any cable television programming or service offered for sale over a
865 cable television system, unless the device or printed circuit board includes the use of
866 a satellite dish or antenna, with the intent that the device or printed circuit be used for
867 the reception of the cable television company's services without payment.
- 868 (3)(a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
- 869 (i) a second degree felony if:
- 870 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000;
871 or
- 872 (B) if the actor previously has been convicted of a violation of this section;
- 873 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is
874 or exceeds \$1,500 but is not more than \$5,000;
- 875 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service
876 is or exceeds \$500 but is not more than \$1,500; or
- 877 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service
878 is less than \$500.

- 879 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
 880 is:
- 881 (i) a second degree felony if the value of the service is or exceeds \$5,000;
 882 (ii) a third degree felony if:
- 883 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
 884 (B) the value of the service is or exceeds \$500 and the actor has been twice before
 885 convicted of any of the following offenses, if each prior offense was committed
 886 within 10 years before the date of the current conviction or the date of the
 887 offense upon which the current conviction is based and at least one of those
 888 convictions is for a class A misdemeanor:
- 889 (I) any theft, any robbery, or any burglary with intent to commit theft;
 890 (II) any offense under Part 5, Fraud;[~~or~~]
 891 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);
 892 or
 893 (IV) any offense in another jurisdiction, including a state, federal, or military
 894 court, that is substantially equivalent to an offense under Subsection
 895 (3)(b)(ii)(B)(I), (II), or (III); or
- 896 (C) the actor has been previously convicted of a felony violation of any of the
 897 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(H),-~~] (IV),
 898 if the prior offense was committed within 10 years before the date of the
 899 current conviction or the date of the offense upon which the current conviction
 900 is based;
- 901 (iii) a class A misdemeanor if:
- 902 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
 903 (B) the actor has been twice before convicted of any of the offenses listed in
 904 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(H),-~~] (IV), if each prior
 905 offense was committed within 10 years before the date of the current
 906 conviction or the date of the offense upon which the current conviction is
 907 based; or
- 908 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
 909 not an offense under Subsection (3)(b)(iii).
- 910 (c)(i) An actor who violates this section shall make restitution to the utility or cable
 911 television company for the value of the gas, electricity, water, sewer, or cable
 912 television service consumed in violation of this section plus all reasonable

- 913 expenses and costs incurred on account of the violation of this section.
- 914 (ii) Reasonable expenses and costs include expenses and costs for investigation,
915 disconnection, reconnection, service calls, employee time, and equipment use.
- 916 (4)(a) The presence on property in the possession of an actor of a device or alteration
917 that permits the diversion or use of utility or cable service to avoid the registration of
918 the use by or on a meter installed by the utility or to otherwise avoid the recording of
919 use of the service for payment or otherwise avoid payment gives rise to an inference
920 that the actor in possession of the property installed the device or caused the
921 alteration if:
- 922 (i) the presence of the device or alteration can be attributed only to a deliberate act in
923 furtherance of an intent to avoid payment for utility or cable television service; and
924 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
925 utility or cable television service.
- 926 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
927 76-2-202.
- 928 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
929 cable television company to bring a civil action for redress for damages suffered as a
930 result of the commission of any of the acts prohibited by this section.
- 931 (b) This section does not abridge or alter any other right, action, or remedy otherwise
932 available to a utility or cable television company.
- 933 Section 13. Section **76-6-410** is amended to read:
- 934 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**
- 935 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 936 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
937 if:
- 938 (a)(i) the actor has custody of property pursuant to an agreement between the actor or
939 another person and the property's owner;
- 940 (ii) the actor or another person is to perform for compensation a specific service for
941 the property's owner involving the maintenance, repair, or use of the owner's
942 property; and
- 943 (iii) the actor intentionally uses or operates the owner's property, without the consent
944 of the owner, for the actor's own purposes in a manner constituting a gross
945 deviation from the agreed purpose; or
- 946 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in

- 947 which the property is to be returned in a specified manner or at a specified time;
- 948 and
- 949 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
- 950 return so as to render such failure a gross deviation from the agreement.
- 951 (3) A violation of Subsection (2) is:
- 952 (a) a second degree felony if the:
- 953 (i) value of the property is or exceeds \$5,000; or
- 954 (ii) property stolen is a firearm or an operable motor vehicle;
- 955 (b) a third degree felony if:
- 956 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 957 (ii) the property is:
- 958 (A) a catalytic converter as defined under Section 76-6-1402; or
- 959 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 960 if the value is less than \$5,000 and the suspect metal is made of or contains
- 961 aluminum or copper and is not a lead battery;
- 962 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 963 convicted of any of the following offenses, if each prior offense was committed
- 964 within 10 years before the date of the current conviction or the date of the offense
- 965 upon which the current conviction is based and at least one of those convictions is
- 966 for a class A misdemeanor:
- 967 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 968 (B) any offense under Part 5, Fraud;[-~~or~~]
- 969 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 970 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 971 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 972 (B), or (C); or
- 973 (iv) the actor has been previously convicted of a felony violation of any of the
- 974 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 975 prior offense was committed within 10 years before the date of the current
- 976 conviction or the date of the offense upon which the current conviction is based;
- 977 (c) a class A misdemeanor if:
- 978 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
- 979 (ii) the actor has been twice before convicted of any of the offenses listed in
- 980 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was

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

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

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

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

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

- 988 (1) "Authorized credit card merchant" means a person who is authorized by an issuer to
 989 furnish money, goods, services, or anything else of value upon presentation of a
 990 financial transaction card by a card holder and to present valid credit card sales drafts to
 991 the issuer for payment.
- 992 (2) "Automated banking device" means any machine which, when properly activated by a
 993 financial transaction card or a personal identification code, may be used for any of the
 994 purposes for which a financial transaction card may be used.
- 995 (3) "Card holder" means any person or organization named on the face of a financial
 996 transaction card to whom or for whose benefit a financial transaction card is issued.
- 997 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record
 998 of a sale of money, goods, services, or anything else of value made or purported to be
 999 made to or at the request of a card holder with a financial transaction card, financial
 1000 transaction card credit number, or personal identification code, whether the record of the
 1001 sale or purported sale is evidenced by a sales draft, voucher, or other similar document
 1002 in writing or electronically recorded and transmitted.
- 1003 (5) "Financial transaction card" means:
- 1004 (a) any credit card, credit plate, bank services card, banking card, check guarantee card,
 1005 debit card, telephone credit card, or any other card, issued by an issuer for the use of
 1006 the card holder in obtaining money, goods, services, or anything else of value on
 1007 credit, or in certifying or guaranteeing to a person or business the availability to the
 1008 card holder of the funds on deposit that are equal to or greater than the amount
 1009 necessary to honor a draft or check payable to the order of the person or business;[-or]
- 1010 (b) any instrument or device used in providing the card holder access to a demand or
 1011 time deposit account for the purpose of making deposits of money or checks in the
 1012 account, or withdrawing funds from the account in the form of money, money orders,
 1013 travelers' checks, or other form representing value, or transferring funds from any
 1014 demand or time deposit account to any credit card account in full or partial

1015 satisfaction of any outstanding balance existing in the credit card account[-] ; or
1016 (c) a card, code, or device that is:
1017 (i) issued to a consumer on a prepaid basis in a specified amount, regardless of
1018 whether that amount may be increased or reloaded in exchange for payment;
1019 (ii) activated or inactivated; and
1020 (iii) redeemable upon presentation:
1021 (A) by a consumer at a single merchant or group of affiliated merchants; or
1022 (B) at multiple unaffiliated merchants for goods or services within the payment
1023 card network.

1024 (6) "Issuer" means a business organization or financial institution or its agent that issues a
1025 financial transaction card.

1026 (7) "Personal identification code" means any numerical or alphabetical code assigned to a
1027 card holder by the issuer to permit the authorized electronic use of the holder's financial
1028 transaction card.

1029 Section 15. Section **76-6-602** is amended to read:

1030 **76-6-602 . Retail theft.**

1031 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

1032 (2) An actor commits retail theft if the actor knowingly:

1033 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
1034 transferred, any merchandise displayed, held, stored, or offered for sale in a retail
1035 mercantile establishment with the intention of:

1036 (i) retaining the merchandise; or

1037 (ii) depriving the merchant permanently of the possession, use or benefit of such
1038 merchandise without paying the retail value of the merchandise;

1039 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or
1040 any other markings which aid in determining value of any merchandise displayed,
1041 held, stored, or offered for sale, in a retail mercantile establishment; and

1042 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
1043 or in consort with another at less than the retail value with the intention of
1044 depriving the merchant of the retail value of the merchandise;

1045 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
1046 mercantile establishment from the container in or on which the merchandise is
1047 displayed to any other container with the intention of depriving the merchant of the
1048 retail value of the merchandise;

- 1049 (d) under-rings with the intention of depriving the merchant of the retail value of the
 1050 merchandise; or
- 1051 (e) removes a shopping cart from the premises of a retail mercantile establishment with
 1052 the intent of depriving the merchant of the possession, use, or benefit of the shopping
 1053 cart.
- 1054 (3) A violation of Subsection (2) is:
- 1055 (a) a second degree felony if the:
- 1056 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;
- 1057 (ii) merchandise stolen is a firearm or an operable motor vehicle;~~[-or]~~
- 1058 (b) a third degree felony if:
- 1059 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
- 1060 (ii) the merchandise is:
- 1061 (A) a catalytic converter as defined under Section 76-6-1402; or
- 1062 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
 1063 if the retail value is less than \$5,000 and the suspect metal is made of or
 1064 contains aluminum or copper and is not a lead battery;
- 1065 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
 1066 actor has been twice before convicted of any of the following offenses, if each
 1067 prior offense was committed within 10 years before the date of the current
 1068 conviction or the date of the offense upon which the current conviction is based
 1069 and at least one of those convictions is for a class A misdemeanor:
- 1070 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 1071 (B) any offense under Part 5, Fraud;~~[-or]~~
- 1072 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 1073 (D) any offense in another jurisdiction, including a state, federal, or military court,
 1074 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 1075 (B), or (C);
- 1076 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
 1077 less than \$1,500;
- 1078 (B) the theft occurs in a retail mercantile establishment or on the premises of a
 1079 retail mercantile establishment where the offender has committed any theft
 1080 within the past five years; and
- 1081 (C) the offender has received written notice from the merchant prohibiting the
 1082 offender from entering the retail mercantile establishment or premises of a

- 1083 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 1084 (v) the actor has been previously convicted of a felony violation of any of the
- 1085 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if the
- 1086 prior offense was committed within 10 years before the date of the current
- 1087 conviction or the date of the offense upon which the current conviction is based;
- 1088 (c) a class A misdemeanor if:
- 1089 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
- 1090 is less than \$1,500;
- 1091 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 1092 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 1093 mercantile establishment where the offender has committed any theft within
- 1094 the past five years; and
- 1095 (C) the offender has received written notice from the merchant prohibiting the
- 1096 offender from entering the retail mercantile establishment or premises of a
- 1097 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 1098 (iii) the actor has been twice before convicted of any of the offenses listed in
- 1099 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if each prior offense was
- 1100 committed within 10 years before the date of the current conviction or the date of
- 1101 the offense upon which the current conviction is based; or
- 1102 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
- 1103 is less than \$500 and the theft is not an offense under Subsection (3)(c).

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

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

- 1106 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 1107 (2) An actor commits the unlawful shielding of a theft detection device if the actor
- 1108 knowingly:
- 1109 (a) makes or possesses any container or device used for, intended for use for, or
- 1110 represented as having the purpose of shielding merchandise from any electronic or
- 1111 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 1112 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any
- 1113 container or device intended for use for or represented as having the purpose of
- 1114 shielding merchandise from any electronic or magnetic theft alarm sensor;
- 1115 (c) possesses any tool or instrument designed to remove any theft detection device from
- 1116 any merchandise, with the intent to use the tool or instrument to remove any theft

1117 detection device from any merchandise without the permission of the merchant or the
1118 person owning or in possession of the merchandise; or

1119 (d) intentionally removes a theft detection device from merchandise prior to purchase
1120 and without the permission of the merchant.

1121 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.

1122 (b) A violation of Subsection (2)(d) is a:

1123 (i) class B misdemeanor if the retail value of the merchandise from which the theft
1124 detection device is removed is less than \$500; or

1125 (ii) class A misdemeanor if the retail value of the merchandise from which the theft
1126 detection device is removed is or exceeds \$500.

1127 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
1128 Theft, or Part 6, Retail Theft.

1129 (5) Criminal prosecutions under this section do not affect any person's right of civil action
1130 for redress for damages suffered as a result of any violation of this section.

1131 Section 17. Section **76-9-802** is amended to read:

1132 **76-9-802 . Definitions.**

1133 As used in this part:

1134 (1) "Criminal street gang" means an organization, association in fact, or group of three or
1135 more ~~[persons]~~ individuals, whether operated formally or informally:

1136 (a) that is currently in operation;

1137 (b) that has as one of its primary activities the commission of ~~[one or more predicate~~
1138 ~~gang crimes]~~ a criminal offense;

1139 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

1140 (d) whose members, acting individually or in concert with other members, engage in or
1141 have engaged in a pattern of criminal gang activity.

1142 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
1143 harm for the purpose of causing an individual to act or refrain from acting.

1144 (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.

1145 (4) "Pattern of criminal gang activity" means:

1146 (a) committing, attempting to commit, conspiring to commit, or soliciting the
1147 commission of two or more ~~[predicate gang crimes]~~ criminal offenses within five
1148 years;

1149 (b) the ~~[predicate gang crimes]~~ criminal offenses are:

1150 (i) committed by two or more ~~[persons]~~ individuals; or

1151 (ii) committed by an individual at the direction of, or in association with a criminal
1152 street gang; and

1153 (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to
1154 promote, further, or assist in any criminal conduct by members of the criminal street
1155 gang.

1156 ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~

1157 ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~

1158 ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an~~
1159 ~~identification number;]~~

1160 ~~[(B) Section 41-1a-1315, regarding false evidence of title and registration;]~~

1161 ~~[(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]~~

1162 ~~[(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an~~
1163 ~~identification number; or]~~

1164 ~~[(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification~~
1165 ~~number;]~~

1166 ~~[(ii) any criminal violation of the following provisions:]~~

1167 ~~[(A) Title 58, Chapter 37, Utah Controlled Substances Act;]~~

1168 ~~[(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]~~

1169 ~~[(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]~~

1170 ~~[(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]~~

1171 ~~[(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]~~

1172 ~~[(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]~~

1173 ~~[(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related~~
1174 ~~offenses;]~~

1175 ~~[(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]~~

1176 ~~[(vii) Title 76, Chapter 6, Part 1, Property Destruction;]~~

1177 ~~[(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]~~

1178 ~~[(ix) Title 76, Chapter 6, Part 3, Robbery;]~~

1179 ~~[(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,~~

1180 ~~Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407,~~

1181 ~~76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8,~~

1182 ~~76-6-409.9, 76-6-410, and 76-6-410.5;]~~

1183 ~~[(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,~~

1184 ~~76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,~~

- 1185 76-6-517, 76-6-518, and 76-6-520;]
- 1186 [(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]
- 1187 [(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
- 1188 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]
- 1189 [(xiv) tampering with a witness under Section 76-8-508;]
- 1190 [(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]
- 1191 [(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 1192 [(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]
- 1193 [(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the
- 1194 violation occurs at an official meeting;]
- 1195 [(xix) Title 76, Chapter 10, Part 3, Explosives;]
- 1196 [(xx) Title 76, Chapter 10, Part 5, Weapons;]
- 1197 [(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]
- 1198 [(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]
- 1199 [(xxiii) communications fraud under Section 76-10-1801;]
- 1200 [(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction
- 1201 Reporting Act; or]
- 1202 [(xxv) burglary of a research facility under Section 76-10-2002.]
- 1203 [(b) "Predicate gang crime" also includes:]
- 1204 [(i) any state or federal criminal offense that by its nature involves a substantial risk
- 1205 that physical force may be used against another in the course of committing the
- 1206 offense; and]
- 1207 [(ii) any felony violation of a criminal statute of any other state, the United States, or
- 1208 any district, possession, or territory of the United States which would constitute a
- 1209 violation of any offense in Subsection (4)(a) if committed in this state.]
- 1210 Section 18. Section **76-9-803** is amended to read:
- 1211 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
- 1212 **criminal street gang.**
- 1213 [(1) It is a class B misdemeanor to:]
- 1214 [(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether
- 1215 or not the minor actually joins the criminal street gang;]
- 1216 [(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor
- 1217 to join a criminal street gang; or]
- 1218 [(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal

- 1219 street gang or ending the minor's affiliation with a criminal street gang.]
- 1220 [(2) It is a class A misdemeanor for any person who is a member of or actively involved
- 1221 with a criminal street gang to:]
- 1222 [(a) intimidate or otherwise cause a minor to commit or attempt to commit any
- 1223 misdemeanor criminal offense; or]
- 1224 [(b) commit a violation of Subsection (1)(a):]
- 1225 [(i) more than once;]
- 1226 [(ii) regarding the same minor; and]
- 1227 [(iii) within a period of 180 days.]
- 1228 [(3) Prosecution for any offense under this section does not prohibit prosecution for any
- 1229 other criminal offense.]
- 1230 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1231 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
- 1232 criminal street gang if the actor:
- 1233 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
- 1234 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a
- 1235 minor to join a criminal street gang.
- 1236 (3) A violation of Subsection (2) is:
- 1237 (a) a class A misdemeanor if the actor is a minor; or
- 1238 (b) a third degree felony if the actor is 18 years old or older.
- 1239 (4) It is not a defense to a prosecution under this section that the minor did not join the
- 1240 criminal street gang.
- 1241 Section 19. Section **76-9-803.1** is enacted to read:
- 1242 **76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to**
- 1243 **join a criminal street gang.**
- 1244 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1245 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to
- 1246 join a criminal street gang if, in the course of committing an offense under Section
- 1247 76-9-803, the offense:
- 1248 (a) involves the use of a dangerous weapon;
- 1249 (b) results in serious bodily injury to any individual; or
- 1250 (c) results in serious emotional distress to any individual.
- 1251 (3) A violation of Subsection (2) is:
- 1252 (a) a third degree felony if the actor is a minor; or

1253 (b) a second degree felony if the actor is 18 years old or older.

1254 (4) It is not a defense to a prosecution under this section that the minor did not join the
1255 criminal street gang.

1256 Section 20. Section **76-9-803.2** is enacted to read:

1257 **76-9-803.2 . Intimidating a minor to remain in a criminal street gang.**

1258 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

1259 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor
1260 intimidates a minor to prevent the minor from leaving a criminal street gang or ending
1261 the minor's affiliation with a criminal street gang.

1262 (3) A violation of Subsection (2) is:

1263 (a) a class A misdemeanor if the actor is a minor; or

1264 (b) a third degree felony if the actor is 18 years old or older.

1265 (4) It is not a defense to a prosecution under this section that the minor described in
1266 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1267 Section 21. Section **76-9-803.3** is enacted to read:

1268 **76-9-803.3 . Aggravated intimidating a minor to remain in a criminal street gang.**

1269 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

1270 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if,
1271 in the course of committing an offense under Section 76-9-803.2, the offense:

1272 (a) involves the use of a dangerous weapon;

1273 (b) results in serious bodily injury to any individual; or

1274 (c) results in serious emotional distress to any individual.

1275 (3) A violation of Subsection (2) is:

1276 (a) a third degree felony if the actor is a minor; or

1277 (b) a second degree felony if the actor is 18 years old or older.

1278 (4) It is not a defense to a prosecution under this section that the minor described in
1279 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1280 Section 22. Section **76-10-1302** is amended to read:

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

1282 (1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the
1283 actor engages in sexual activity with another individual for a fee, or the functional
1284 equivalent of a fee.

1285 (2)(a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of
1286 Subsection (1) is a class B misdemeanor.

- 1287 (b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time,~~
 1288 ~~and on all subsequent convictions, of a subsequent offense of prostitution under this~~
 1289 ~~section or] A violation of Subsection (1) is a class A misdemeanor if the actor has
 1290 previously been convicted of:~~
- 1291 (i) a violation of Subsection (1);
 - 1292 (ii) [~~under~~] a local ordinance adopted [~~under~~] in accordance with Section 76-10-1307[;
 1293 is guilty of a class A misdemeanor] addressing the same or similar type of
 1294 violation to the violation described in Subsection (1); or
 - 1295 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1296 court, that is substantially equivalent to the violation described in Subsection (1).
- 1297 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor
 1298 engages in a violation of Subsection (1) at or near the time the actor witnesses or is a
 1299 victim of any of the following offenses, or an attempt to commit any of the following
 1300 offenses, and the actor reports the offense or attempt to law enforcement in good faith:
- 1301 (a) assault, Section 76-5-102;
 - 1302 (b) aggravated assault, Section 76-5-103;
 - 1303 (c) mayhem, Section 76-5-105;
 - 1304 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
 1305 homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;
 - 1306 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
 1307 aggravated human trafficking, human smuggling or aggravated human smuggling, or
 1308 human trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and
 1309 Smuggling;
 - 1310 (f) rape, Section 76-5-402;
 - 1311 (g) rape of a child, Section 76-5-402.1;
 - 1312 (h) object rape, Section 76-5-402.2;
 - 1313 (i) object rape of a child, Section 76-5-402.3;
 - 1314 (j) forcible sodomy, Section 76-5-403;
 - 1315 (k) sodomy on a child, Section 76-5-403.1;
 - 1316 (l) forcible sexual abuse, Section 76-5-404;
 - 1317 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
 1318 Section 76-5-404.3;
 - 1319 (n) aggravated sexual assault, Section 76-5-405;
 - 1320 (o) sexual exploitation of a minor, Section 76-5b-201;

- 1321 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
 1322 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
 1323 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and
 1324 Criminal Trespass;
 1325 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or
 1326 (t) theft by extortion under Section 76-6-406 under the circumstances described in
 1327 Subsection 76-6-406(1)(a)(i) or (ii).

1328 *The following section is affected by a coordination clause at the end of this bill.*

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

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

- 1331 (1) An actor is guilty of patronizing a prostitute if the actor:
 1332 (a) pays or offers or agrees to pay a prostituted individual, or an individual the actor
 1333 believes to be a prostituted individual, a fee, or the functional equivalent of a fee, for
 1334 the purpose of engaging in an act of sexual activity; or
 1335 (b) enters or remains in a place of prostitution for the purpose of engaging in sexual
 1336 activity.
- 1337 [~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3),~~
 1338 ~~(4), or (5) or Section 76-10-1309.]~~
- 1339 [~~(3) A violation of this section that is preceded by a conviction under this section or a~~
 1340 ~~conviction under a local ordinance adopted under Section 76-10-1307 is a class A~~
 1341 ~~misdemeanor.]~~
- 1342 [~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307~~
 1343 ~~is a third degree felony.]~~
- 1344 (2)(a) Except as provided in Subsection (2)(b), (3), or Section 76-10-1309, a violation of
 1345 Subsection (1) is a class A misdemeanor with a mandatory fine of not less than
 1346 \$5,000.
- 1347 (b) A violation of Subsection (1) is a third degree felony, with a mandatory fine of not
 1348 less than \$10,000, if the actor has previously been convicted two or more times of:
 1349 (i) a violation of Subsection (1);
 1350 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
 1351 same or similar type of violation to the violation described in Subsection (1); or
 1352 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1353 court, that is substantially equivalent to the violation described in Subsection (1).
- 1354 [~~(5)] (3)(a) Except as provided in Subsection [~~(5)(d)] (3)(d), if the patronizing of a~~~~

1355 prostitute under Subsection (1)(a) involves a child as the other individual, a violation
 1356 of Subsection (1)(a) is a second degree felony with a mandatory fine of not less than
 1357 \$20,000.

1358 (b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under
 1359 Subsection [(5)(a)] (3)(a) that the actor mistakenly believed the individual to be 18
 1360 years old or older at the time of the offense or was unaware of the individual's true
 1361 age.

1362 (c) An actor's belief that the individual was under 18 years old at the time of the offense,
 1363 even if the individual was 18 years old or older, is a violation of Subsection [(5)(a)]
 1364 (3)(a).

1365 (d) If the act committed under Subsection [(5)(a)] (3)(a) amounts to an offense that is
 1366 subject to a greater penalty under another provision of state law than is provided
 1367 under Subsection [(5)(a)] (3)(a), this Subsection [(5)] (3) does not prohibit prosecution
 1368 and sentencing for the more serious offense.

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

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

1371 (b) the defendant to pay for and complete a court-approved educational program about
 1372 the negative effects on an individual involved with prostitution or human trafficking.

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

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

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

1376 (a)(i) solicits an individual to patronize a prostitute, or to patronize an individual the
 1377 actor believes to be a prostitute;

1378 (ii) procures or attempts to procure a prostitute, or an individual the actor believes to
 1379 be a prostitute, for a patron;

1380 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
 1381 association with another, to be used for prostitution or the promotion of
 1382 prostitution; or

1383 (iv) provides any service or commits any act that enables another individual to
 1384 commit a violation of this Subsection (1)(a) or facilitates another individual's
 1385 ability to commit any violation of this Subsection (1)(a); or

1386 (b) solicits, receives, or agrees to receive any benefit for committing any of the acts
 1387 prohibited by Subsection (1)(a).

1388 [~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~

1389 ~~[(3) An individual who is convicted a second time, and on all subsequent convictions, under~~
 1390 ~~this section or under a local ordinance adopted in compliance with Section 76-10-1307~~
 1391 ~~is guilty of a third degree felony.]~~

1392 (2)(a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A
 1393 misdemeanor.

1394 (b) A violation of Subsection (1) is a third degree felony if the actor has previously been
 1395 convicted of:

1396 (i) a violation of Subsection (1);

1397 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
 1398 same or similar type of violation to the violation described in Subsection (1); or

1399 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1400 court, that is substantially equivalent to the violation described in Subsection (1).

1401 ~~[(4)] (3) Upon a conviction for a violation of this section, the court shall order [the~~
 1402 ~~maximum fine amount] a fine of not less than \$10,000 and may not waive or suspend the~~
 1403 ~~fine.~~

1404 Section 25. Section **76-10-1602** is amended to read:

1405 **76-10-1602 . Definitions.**

1406 As used in this part:

1407 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
 1408 business trust, association, or other legal entity, and any union or group of individuals
 1409 associated in fact although not a legal entity, and includes illicit as well as licit entities.

1410 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
 1411 commission of at least three episodes of unlawful activity, which episodes are not
 1412 isolated, but have the same or similar purposes, results, participants, victims, or methods
 1413 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
 1414 together, the episodes shall demonstrate continuing unlawful conduct and be related
 1415 either to each other or to the enterprise. At least one of the episodes comprising a
 1416 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
 1417 constituting part of a pattern of unlawful activity as defined by this part shall have
 1418 occurred within five years of the commission of the next preceding act alleged as part of
 1419 the pattern.

1420 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
 1421 interest in property, including state, county, and local governmental entities.

1422 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,

- 1423 encourage, or intentionally aid another person to engage in conduct which would
1424 constitute any offense described by the following crimes or categories of crimes, or to
1425 attempt or conspire to engage in an act which would constitute any of those offenses,
1426 regardless of whether the act is in fact charged or indicted by any authority or is
1427 classified as a misdemeanor or a felony:
- 1428 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
1429 Recording Practices Act;
 - 1430 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
1431 Code, Sections 19-1-101 through 19-7-109;
 - 1432 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
1433 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
1434 Section 23A-5-311;
 - 1435 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
1436 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 1437 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
1438 Offenses and Procedure Act;
 - 1439 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
1440 Uniform Land Sales Practices Act;
 - 1441 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
1442 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
1443 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
1444 Chapter 37d, Clandestine Drug Lab Act;
 - 1445 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
1446 Securities Act;
 - 1447 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
1448 Procurement Code;
 - 1449 (j) assault under Section_76-5-102;
 - 1450 (k) aggravated assault under Section 76-5-103;
 - 1451 (l) a threat of terrorism under Section 76-5-107.3;
 - 1452 (m) a criminal homicide offense under Section 76-5-201;
 - 1453 (n) kidnapping under Section_76-5-301;
 - 1454 (o) aggravated kidnapping under Section_76-5-302;
 - 1455 (p) human trafficking for labor under Section 76-5-308;
 - 1456 (q) human trafficking for sexual exploitation under Section 76-5-308.1;

- 1457 (r) human smuggling under Section 76-5-308.3;
- 1458 (s) human trafficking of a child under Section 76-5-308.5;
- 1459 (t) ~~[benefiting]~~ benefitting from trafficking and human smuggling under Section 76-5-309;
- 1460 (u) aggravated human trafficking under Section 76-5-310;
- 1461 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1462 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1463 (x) sexual extortion under Section 76-5b-204;
- 1464 ~~[(x)]~~ (y) arson under Section 76-6-102;
- 1465 ~~[(y)]~~ (z) aggravated arson under Section 76-6-103;
- 1466 ~~[(z)]~~ (aa) causing a catastrophe under Section 76-6-105;
- 1467 ~~[(aa)]~~ (bb) burglary under Section 76-6-202;
- 1468 ~~[(bb)]~~ (cc) aggravated burglary under Section 76-6-203;
- 1469 ~~[(cc)]~~ (dd) burglary of a vehicle under Section 76-6-204;
- 1470 ~~[(dd)]~~ (ee) manufacture or possession of an instrument for burglary or theft under Section
- 1471 76-6-205;
- 1472 ~~[(ee)]~~ (ff) robbery under Section 76-6-301;
- 1473 ~~[(ff)]~~ (gg) aggravated robbery under Section 76-6-302;
- 1474 ~~[(gg)]~~ (hh) theft under Section 76-6-404;
- 1475 ~~[(hh)]~~ (ii) theft by deception under Section 76-6-405;
- 1476 ~~[(ii)]~~ (jj) theft by extortion under Section 76-6-406;
- 1477 ~~[(jj)]~~ (kk) receiving stolen property under Section 76-6-408;
- 1478 ~~[(kk)]~~ (ll) theft of services under Section 76-6-409;
- 1479 ~~[(ll)]~~ (mm) forgery under Section 76-6-501;
- 1480 ~~[(mm)]~~ (nn) unlawful use of financial transaction card under Section 76-6-506.2;
- 1481 ~~[(nn)]~~ (oo) unlawful acquisition, possession, or transfer of financial transaction card
- 1482 under Section 76-6-506.3;
- 1483 ~~[(oo)]~~ (pp) financial transaction card offenses under Section 76-6-506.6;
- 1484 ~~[(pp)]~~ (qq) deceptive business practices under Section 76-6-507;
- 1485 ~~[(qq)]~~ (rr) bribery or receiving bribe by person in the business of selection, appraisal, or
- 1486 criticism of goods under Section 76-6-508;
- 1487 ~~[(rr)]~~ (ss) bribery of a labor official under Section 76-6-509;
- 1488 ~~[(ss)]~~ (tt) defrauding creditors under Section 76-6-511;
- 1489 ~~[(tt)]~~ (uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 1490 ~~[(uu)]~~ (vv) unlawful dealing with property by fiduciary under Section 76-6-513;

1491 [~~(vv)~~] (ww) bribery or threat to influence contest under Section 76-6-514;
 1492 [~~(ww)~~] (xx) making a false credit report under Section 76-6-517;
 1493 [~~(xx)~~] (yy) criminal simulation under Section 76-6-518;
 1494 [~~(yy)~~] (zz) criminal usury under Section 76-6-520;
 1495 [~~(zz)~~] (aaa) insurance fraud under Section 76-6-521;
 1496 [~~(aaa)~~] (bbb) retail theft under Section 76-6-602;
 1497 [~~(bbb)~~] (ccc) computer crimes under Section 76-6-703;
 1498 [~~(eee)~~] (ddd) identity fraud under Section 76-6-1102;
 1499 [~~(ddd)~~] (eee) mortgage fraud under Section 76-6-1203;
 1500 [~~(eee)~~] (fff) sale of a child under Section 76-7-203;
 1501 [~~(fff)~~] (ggg) bribery to influence official or political actions under Section 76-8-103;
 1502 [~~(ggg)~~] (hhh) threat to influence official or political action under Section 76-8-104;
 1503 [~~(hhh)~~] (iii) receiving bribe or bribery by public servant under Section 76-8-105;
 1504 [~~(iii)~~] (jjj) receiving bribe for endorsement of person as a public servant under Section
 1505 76-8-106;
 1506 [~~(jjj)~~] (kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
 1507 [~~(kkk)~~] (lll) official misconduct based on unauthorized act or failure of duty under Section
 1508 76-8-201;
 1509 [~~(lll)~~] (mmm) official misconduct concerning inside information under Section 76-8-202;
 1510 [~~(mmm)~~] (nnn) obstruction of justice in a criminal investigation or proceeding under
 1511 Section 76-8-306;
 1512 [~~(nnn)~~] (ooo) acceptance of bribe or bribery to prevent criminal prosecution under
 1513 Section 76-8-308;
 1514 [~~(ooo)~~] (ppp) harboring or concealing offender who has escaped from official custody
 1515 under Section 76-8-309.2;
 1516 [~~(ppp)~~] (qqq) making a false or inconsistent material statement under Section 76-8-502;
 1517 [~~(qqq)~~] (rrr) making a false or inconsistent statement under Section 76-8-503;
 1518 [~~(rrr)~~] (sss) making a written false statement under Section 76-8-504;
 1519 [~~(sss)~~] (ttt) tampering with a witness under Section 76-8-508;
 1520 [~~(ttt)~~] (uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 1521 [~~(uuu)~~] (vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 1522 [~~(vvv)~~] (www) extortion or bribery to dismiss a criminal proceeding under Section
 1523 76-8-509;
 1524 [~~(www)~~] (xxx) tampering with evidence under Section 76-8-510.5;

1525 [~~(xxx)~~] (yyy) falsification or alteration of a government record under Section 76-8-511, if
 1526 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
 1527 Lobbyist Disclosure and Regulation Act;

1528 [~~(yyy)~~] (zzz) public assistance fraud by an applicant for public assistance under Section
 1529 76-8-1203.1;

1530 [~~(zzz)~~] (aaaa) public assistance fraud by a recipient of public assistance under Section
 1531 76-8-1203.3;

1532 [~~(aaaa)~~] (bbbb) public assistance fraud by a provider under Section 76-8-1203.5;

1533 [~~(bbbb)~~] (cccc) fraudulently misappropriating public assistance funds under Section
 1534 76-8-1203.7;

1535 [~~(eeee)~~] (dddd) false statement to obtain or increase unemployment compensation under
 1536 Section 76-8-1301;

1537 [~~(dddd)~~] (eeee) false statement to prevent or reduce unemployment compensation or
 1538 liability under Section 76-8-1302;

1539 [~~(eeee)~~] (ffff) unlawful failure to comply with Employment Security Act requirements
 1540 under Section 76-8-1303;

1541 [~~(ffff)~~] (gggg) unlawful use or disclosure of employment information under Section
 1542 76-8-1304;

1543 [~~(gggg)~~] (hhhh) intentionally or knowingly causing one animal to fight with another
 1544 under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

1545 (iii) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang
 1546 under Section 76-9-803;

1547 (jii) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
 1548 street gang under Section 76-9-803.1;

1549 (kii) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;

1550 (lii) aggravated intimidating a minor to remain in a criminal street gang under Section
 1551 76-9-803.3;

1552 [~~(hhhh)~~] (mmmm) possession, use, or removal of explosives, chemical, or incendiary
 1553 devices or parts under Section 76-10-306;

1554 [~~(iiii)~~] (nnnn) delivery to common carrier, mailing, or placement on premises of an
 1555 incendiary device under Section 76-10-307;

1556 [~~(jjjj)~~] (oooo) possession of a deadly weapon with intent to assault under Section
 1557 76-10-507;

1558 [~~(kkkk)~~] (pppp) unlawful marking of pistol or revolver under Section 76-10-521;

1559 [(HHH)] (qqqq) alteration of number or mark on pistol or revolver under Section 76-10-522;
 1560 [(mmmm)] (rrrr) forging or counterfeiting trademarks, trade name, or trade device under
 1561 Section 76-10-1002;
 1562 [(nnnn)] (ssss) selling goods under counterfeited trademark, trade name, or trade devices
 1563 under Section 76-10-1003;
 1564 [(oooo)] (tttt) sales in containers bearing registered trademark of substituted articles
 1565 under Section 76-10-1004;
 1566 [(pppp)] (uuuu) selling or dealing with article bearing registered trademark or service
 1567 mark with intent to defraud under Section 76-10-1006;
 1568 [(qqqq)] (vvvv) gambling under Section 76-10-1102;
 1569 [(rrrr)] (wwww) gambling fraud under Section 76-10-1103;
 1570 [(ssss)] (xxxx) gambling promotion under Section 76-10-1104;
 1571 [(tttt)] (yyyy) possessing a gambling device or record under Section 76-10-1105;
 1572 [(uuuu)] (zzzz) confidence game under Section 76-10-1109;
 1573 [(vvvv)] (aaaa) distributing pornographic material under Section 76-10-1204;
 1574 [(wwww)] (bbbb) inducing acceptance of pornographic material under Section
 1575 76-10-1205;
 1576 [(xxxx)] (ccccc) dealing in harmful material to a minor under Section 76-10-1206;
 1577 [(yyyy)] (dddd) distribution of pornographic films under Section 76-10-1222;
 1578 [(zzzz)] (eeee) indecent public displays under Section 76-10-1228;
 1579 [(aaaa)] (ffff) prostitution under Section 76-10-1302;
 1580 [(bbbb)] (ggggg) aiding prostitution under Section 76-10-1304;
 1581 [(eeee)] (hhhhh) exploiting prostitution under Section 76-10-1305;
 1582 [(dddd)] (iiii) aggravated exploitation of prostitution under Section 76-10-1306;
 1583 [(eeee)] (jjjj) communications fraud under Section 76-10-1801;
 1584 [(ffff)] (kkkkk) an act prohibited by the criminal provisions of Part 19, Money
 1585 Laundering and Currency Transaction Reporting Act;
 1586 [(ggggg)] (llll) vehicle compartment for contraband under Section 76-10-2801;
 1587 [(hhhhh)] (mmmmm) an act prohibited by the criminal provisions of the laws governing
 1588 taxation in this state; or
 1589 [(iiii)] (nnnnn) an act illegal under the laws of the United States and enumerated in 18
 1590 U.S.C. [See.] Secs. 1961(1)(B), (C), and (D).
 1591 Section 26. Section **78B-6-1101** is amended to read:
 1592 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**

- 1593 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
1594 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
1595 of life or property. A nuisance may be the subject of an action.
- 1596 (2) A nuisance may include the following:
- 1597 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
 - 1598 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
 - 1599 (c) criminal activity committed in concert with [~~three~~] two or more [~~persons~~] individuals
1600 as provided in Section 76-3-203.1;
 - 1601 (d) criminal activity committed for the benefit of, at the direction of, or in association
1602 with any criminal street gang as defined in Section 76-9-802;
 - 1603 (e) criminal activity committed to gain recognition, acceptance, membership, or
1604 increased status with a criminal street gang as defined in Section 76-9-802;
 - 1605 (f) party houses that frequently create conditions defined in Subsection (1); and
1606 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1607 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
1608 person rents, leases, or owns, from another residential or commercial unit and the smoke:
- 1609 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
1610 (b) creates any of the conditions under Subsection (1).
- 1611 (4) Subsection (3) does not apply to:
- 1612 (a) a residential rental unit available for temporary rental, such as for a vacation, or
1613 available for only 30 or fewer days at a time; or
1614 (b) a hotel or motel room.
- 1615 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
1616 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
1617 57-19-2.
- 1618 (6) An action may be brought by a person whose property is injuriously affected, or whose
1619 personal enjoyment is lessened by the nuisance.
- 1620 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
1621 44, Agricultural Operations Nuisances Act.
- 1622 (8) "Critical infrastructure materials operations" means the same as that term is defined in
1623 Section 10-9a-901.
- 1624 (9) "Manufacturing facility" means a factory, plant, or other facility including its
1625 appurtenances, where the form of raw materials, processed materials, commodities, or
1626 other physical objects is converted or otherwise changed into other materials,

1627 commodities, or physical objects or where such materials, commodities, or physical
 1628 objects are combined to form a new material, commodity, or physical object.

1629 Section 27. Section **78B-6-1107** is amended to read:

1630 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
 1631 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**

1632 (1) Every building or place is a nuisance where:

1633 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
 1634 acquisition occurs of any controlled substance, precursor, or analog specified in Title
 1635 58, Chapter 37, Utah Controlled Substances Act;

1636 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
 1637 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
 1638 defined in Subsection 78B-6-1101(1);

1639 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals
 1640 as provided in Section 76-3-203.1;

1641 (d) criminal activity is committed for the benefit of, at the direction of, or in association
 1642 with any criminal street gang as defined in Section 76-9-802;

1643 (e) criminal activity is committed to gain recognition, acceptance, membership, or
 1644 increased status with a criminal street gang as defined in Section 76-9-802;

1645 (f) parties occur frequently which create the conditions of a nuisance as defined in
 1646 Subsection 78B-6-1101(1);

1647 (g) prostitution or promotion of prostitution is regularly carried on by one or more
 1648 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

1649 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

1650 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
 1651 defendant is lawfully entitled to possession of a controlled substance.

1652 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
 1653 nuisance as defined in Subsection (1).

1654 Section 28. **Effective Date.**

1655 This bill takes effect on May 7, 2025.

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

1657 If H.B. 38, Criminal Offenses Modifications, and H.B. 22, Prostitution Offense

1658 Amendments, both pass and become law, and H.B. 21, Criminal Code Recodification and

1659 Cross References, does not pass and become law, the Legislature intends that, on May 7, 2025:

1660 (1) the amendments to Section 76-5d-203, renumbered from Section 76-10-1303, in H.B.

1661 22 supersede the amendments to Section 76-10-1303 in H.B. 38;

1662 (2) Subsection 76-5d-203(3), in H.B. 22, be amended to read:

1663 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
1664 class A misdemeanor.

1665 (b) A violation of Subsection (2) is a third degree felony if the actor has
1666 previously been convicted two or more times of:

1667 (i) a violation of Subsection (2);

1668 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing
1669 the same or similar type of violation to the violation described in Subsection (2); or

1670 (iii) a criminal violation in another jurisdiction, including a state, federal, or
1671 military court, that is substantially equivalent to the violation described in Subsection (2)."; and

1672 (3) Subsection 76-5d-204(3)(a), enacted in H.B. 22, be amended to read:

1673 "(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1674 degree felony with a mandatory fine of not less than \$20,000."

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

1676 If H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code

1677 Recodification and Cross References, both pass and become law, and H.B. 22, Prostitution

1678 Offense Amendments, does not pass and become law, the Legislature intends that, on May 7,

1679 2025:

1680 (1) the amendments to Section 76-5d-203, renumbered from Section 76-10-1303, in

1681 H.B. 21 supersede the amendments to Section 76-10-1303 in H.B. 38;

1682 (2) Subsection 76-5d-203(3), in H.B. 21, be amended to read:

1683 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
1684 class A misdemeanor.

1685 (b) A violation of Subsection (2) is a third degree felony if the actor has
1686 previously been convicted two or more times of:

1687 (i) a violation of Subsection (2);

1688 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing
1689 the same or similar type of violation to the violation described in Subsection (2); or

1690 (iii) a criminal violation in another jurisdiction, including a state, federal, or
1691 military court, that is substantially equivalent to the violation described in Subsection (2)."; and

1692 (3) Subsection 76-5d-204(3), enacted in H.B. 22, be amended to read:

1693 "(3) A violation of Subsection (2) is a second degree felony with a mandatory fine of
1694 not less than \$20,000."

1695 Section 31. **Coordinating H.B. 38 with H.B. 22 and H.B. 21 if all pass and become law.**

1696 If H.B. 38, Criminal Offenses Modifications, H.B. 22, Prostitution Offense

1697 Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and

1698 become law, the Legislature intends that, on May 7, 2025:

1699 (1) the changes to Section 76-10-1303 in H.B. 38 not be made;

1700 (2) Subsection 76-5d-203(3) in H.B. 21 and H.B. 22 be amended to read:

1701 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
1702 class A misdemeanor.

1703 (b) A violation of Subsection (2) is a third degree felony if the actor has
1704 previously been convicted two or more times of:

1705 (i) a violation of Subsection (2);

1706 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing
1707 the same or similar type of violation to the violation described in Subsection (2); or

1708 (iii) a criminal violation in another jurisdiction, including a state, federal, or
1709 military court, that is substantially equivalent to the violation described in Subsection (2).";

1710 (3) Section 76-5d-204, enacted in H.B. 22, supersede Section 76-5d-204, enacted in
1711 H.B. 21; and

1712 (4) Subsection 76-5d-204(3)(a), enacted in H.B. 22 and H.B. 21, be amended to read:

1713 "(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1714 degree felony with a mandatory fine of not less than \$20,000.".