

**Substance Use Treatment and Enforcement Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tyler Clancy**

Senate Sponsor: Brady Brammer

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**LONG TITLE****General Description:**

This bill addresses treatment and enforcement issues related to substance use.

**Highlighted Provisions:**

This bill:

- defines terms;

- requires a local substance abuse authority to include in the authority's annual plan a comprehensive list of available substance use services, in a form and format usable by first responders;

- requires a local mental health authority to include in the authority's annual plan a comprehensive list of available mental health services, in a form and format usable by first responders;

- allows and encourages first responders to offer a referral to substance use or mental health services to an individual who experiences an intentional or accidental overdose;

- addresses requirements for syringe exchange programs and information collected relating to syringe exchange programs;

- allows a substance use disorder treatment provider to operate a mobile unit to provide medication to treat substance use withdrawal symptoms or an opioid use disorder, and provides certain requirements for operation of a mobile unit;

- grants rulemaking authority to the Department of Health and Human Services regarding the requirements for operating a mobile unit to provide medication to treat substance use withdrawal symptoms or an opioid use disorder;

- amends criminal provisions of the Utah Controlled Substances Act, including the creation of a treatment-mandated felony option for certain convictions;

- creates the crime of maintenance of a drug-involved premises;

- amends provisions regarding civil nuisance actions, including provisions that relate to a nuisance caused by unlawful actions involving a controlled substance;

- repeals intent language; and

31       ▸ makes technical and conforming changes.

32   **Money Appropriated in this Bill:**

33       None

34   **Other Special Clauses:**

35       None

36   **Utah Code Sections Affected:**

37   AMENDS:

38       **10-3-703**, as last amended by Laws of Utah 2020, Chapter 89

39       **17-43-102**, as last amended by Laws of Utah 2023, Chapter 327

40       **17-43-201**, as last amended by Laws of Utah 2023, Chapters 15, 327

41       **17-43-301**, as last amended by Laws of Utah 2024, Chapters 240, 299

42       **17-53-223**, as last amended by Laws of Utah 2020, Chapter 89

43       **26B-7-117**, as last amended by Laws of Utah 2024, Chapter 250

44       **58-37-8**, as last amended by Laws of Utah 2024, Chapter 105

45       **58-37f-201**, as last amended by Laws of Utah 2023, Chapters 329, 415

46       **58-37f-704**, as last amended by Laws of Utah 2022, Chapter 116

47       **76-10-801**, as enacted by Laws of Utah 1973, Chapter 196

48       **76-10-803**, as last amended by Laws of Utah 2019, Chapters 81, 227

49       **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207

50       **78B-6-1102**, as enacted by Laws of Utah 2008, Chapter 3

51       **78B-6-1102.5**, as enacted by Laws of Utah 2010, Chapter 99

52       **78B-6-1103**, as last amended by Laws of Utah 2011, Chapter 185

53       **78B-6-1106**, as enacted by Laws of Utah 2008, Chapter 3

54       **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207

55       **78B-6-1108**, as renumbered and amended by Laws of Utah 2008, Chapter 3

56       **78B-6-1109**, as renumbered and amended by Laws of Utah 2008, Chapter 3

57       **78B-6-1110**, as renumbered and amended by Laws of Utah 2008, Chapter 3

58       **78B-6-1111**, as renumbered and amended by Laws of Utah 2008, Chapter 3

59       **78B-6-1112**, as renumbered and amended by Laws of Utah 2008, Chapter 3

60       **78B-6-1113**, as renumbered and amended by Laws of Utah 2008, Chapter 3

61       **78B-6-1114**, as renumbered and amended by Laws of Utah 2008, Chapter 3

62   ENACTS:

63       **26B-5-121**, Utah Code Annotated 1953

64       **58-17b-309.8**, Utah Code Annotated 1953

65        **76-10-803.1**, Utah Code Annotated 1953

66        REPEALS:

67        **78B-6-1105**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

70        Section 1. Section **10-3-703** is amended to read:

71        **10-3-703 . Criminal penalties for violation of ordinance -- Civil penalties**  
 72 **prohibited -- Exceptions.**

73        (1)(a) The governing body of a municipality may impose a criminal penalty for the  
 74        violation of any municipal ordinance by a fine not to exceed the maximum class B  
 75        misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six  
 76        months, or by both the fine and term of imprisonment.

77        (b) Notwithstanding Subsection (1)(a), a municipality may not impose a criminal penalty  
 78        greater than an infraction for a violation pertaining to an individual's pet, as defined  
 79        in Section 4-12-102, or an individual's use of the individual's residence unless:

80        (i) the violation:

81                (A) is a nuisance as that term is defined in [Subsection 78B-6-1101(1)] Section  
 82                78B-6-1101; and

83                (B) threatens the health, safety, or welfare of the individual or an identifiable third  
 84                party; or

85                (ii) the municipality has imposed a fine on the individual for a violation that involves  
 86                the same residence or pet on three previous occasions within the past 12 months.

87        (c) Subsection (1)(b) does not apply to municipal enforcement of a building code or fire  
 88        code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

89        (2)(a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil  
 90        penalty for the violation of any municipal ordinance by a fine not to exceed the  
 91        maximum class B misdemeanor fine under Section 76-3-301.

92        (b) A municipality may not impose a civil penalty and adjudication for the violation of a  
 93        municipal moving traffic ordinance.

94        (3)(a) Except as provided in Subsection (3)(b) or Section 77-7-18, a municipal officer  
 95        or official who is not a law enforcement officer described in Section 53-13-103 or a  
 96        special function officer described in Section 53-13-105 may not issue a criminal  
 97        citation for a violation that is punished as a misdemeanor.

98        (b) Notwithstanding Subsection (1) or (3)(a), the following may issue a criminal citation

99 for a violation that is punished as a misdemeanor if the violation threatens the health  
100 and safety of an animal or the public:

- 101 (i) a fire officer described in Section 53-7-102; or
- 102 (ii) an animal control officer described in Section 11-46-102.

103 (4) A municipality may not issue more than one infraction within a 14-day time period for a  
104 violation described in Subsection (1)(b) that is ongoing.

105 Section 2. Section **17-43-102** is amended to read:

106 **17-43-102 . Definitions.**

107 As used in this chapter:

108 (1) "Department" means the Department of Health and Human Services created in Section  
109 26B-1-201.

110 (2) "Division" means the Division of Integrated Healthcare within the department.

111 (3) "First responder" means:

- 112 (a) a law enforcement officer, as that term is defined in Section 53-13-103;
- 113 (b) emergency medical service personnel, as that term is defined in Section 53-2d-101;
- 114 (c) an emergency medical technician, as that term is defined in Section 53-2e-101;
- 115 (d) an advanced emergency medical technician, as that term is defined in Section  
116 53-2e-101;
- 117 (e) a firefighter, as that term is defined in Section 53B-8c-102; or
- 118 (f) a dispatcher, as that term is defined in Section 53-6-102.

119 Section 3. Section **17-43-201** is amended to read:

120 **17-43-201 . Local substance abuse authorities -- Responsibilities.**

121 (1)(a)(i) In each county operating under a county executive-council form of  
122 government under Section 17-52a-203, the county legislative body is the local  
123 substance abuse authority, provided however that any contract for plan services  
124 shall be administered by the county executive.

125 (ii) In each county operating under a council-manager form of government under  
126 Section 17-52a-204, the county manager is the local substance abuse authority.

127 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the  
128 county legislative body is the local substance abuse authority.

129 (b) Within legislative appropriations and county matching funds required by this section,  
130 and under the direction of the division, each local substance abuse authority shall:

- 131 (i) develop substance use prevention and treatment services plans;
- 132 (ii) provide substance use services to residents of the county; and

- 133 (iii) cooperate with efforts of the division to promote integrated programs that  
134 address an individual's substance use, mental health, and physical healthcare  
135 needs, as described in Section 26B-5-102.
- 136 (c) Within legislative appropriations and county matching funds required by this section,  
137 each local substance abuse authority shall cooperate with the efforts of the  
138 department to promote a system of care, as defined in Section 26B-5-101, for minors  
139 with or at risk for complex emotional and behavioral needs, as described in Section [  
140 ~~26B-1-202~~] 26B-5-101.
- 141 (2)(a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
142 Cooperation Act, two or more counties may join to:
- 143 (i) provide substance use prevention and treatment services; or  
144 (ii) create a united local health department that provides substance use treatment  
145 services, mental health services, and local health department services in  
146 accordance with Subsection (3).
- 147 (b) The legislative bodies of counties joining to provide services may establish  
148 acceptable ways of apportioning the cost of substance use services.
- 149 (c) Each agreement for joint substance use services shall:
- 150 (i)(A) designate the treasurer of one of the participating counties or another  
151 person as the treasurer for the combined substance abuse authorities and as the  
152 custodian of money available for the joint services; and  
153 (B) provide that the designated treasurer, or other disbursing officer authorized by  
154 the treasurer, may make payments from the money for the joint services upon  
155 audit of the appropriate auditing officer or officers representing the  
156 participating counties;
- 157 (ii) provide for the appointment of an independent auditor or a county auditor of one  
158 of the participating counties as the designated auditing officer for the combined  
159 substance abuse authorities;
- 160 (iii)(A) provide for the appointment of the county or district attorney of one of the  
161 participating counties as the designated legal officer for the combined  
162 substance abuse authorities; and  
163 (B) authorize the designated legal officer to request and receive the assistance of  
164 the county or district attorneys of the other participating counties in defending  
165 or prosecuting actions within their counties relating to the combined substance  
166 abuse authorities; and

167 (iv) provide for the adoption of management, clinical, financial, procurement,  
168 personnel, and administrative policies as already established by one of the  
169 participating counties or as approved by the legislative body of each participating  
170 county or interlocal board.

171 (d) An agreement for joint substance use services may provide for joint operation of  
172 services and facilities or for operation of services and facilities under contract by one  
173 participating local substance abuse authority for other participating local substance  
174 abuse authorities.

175 (3) A county governing body may elect to combine the local substance abuse authority with  
176 the local mental health authority created in Part 3, Local Mental Health Authorities, and  
177 the local health department created in Title 26A, Chapter 1, Part 1, Local Health  
178 Department Act, to create a united local health department under Section 26A-1-105.5.  
179 A local substance abuse authority that joins a united local health department shall  
180 comply with this part.

181 (4)(a) Each local substance abuse authority is accountable to the department and the  
182 state with regard to the use of state and federal funds received from those  
183 departments for substance use services, regardless of whether the services are  
184 provided by a private contract provider.

185 (b) Each local substance abuse authority shall comply, and require compliance by its  
186 contract provider, with all directives issued by the department regarding the use and  
187 expenditure of state and federal funds received from those departments for the  
188 purpose of providing substance use programs and services. The department shall  
189 ensure that those directives are not duplicative or conflicting, and shall consult and  
190 coordinate with local substance abuse authorities with regard to programs and  
191 services.

192 (5) Each local substance abuse authority shall:

193 (a) review and evaluate substance use prevention and treatment needs and services,  
194 including substance use needs and services for individuals incarcerated in a county  
195 jail or other county correctional facility;

196 (b) annually prepare and submit to the division a plan approved by the county legislative  
197 body for funding and service delivery that includes:

198 (i) provisions for services, either directly by the substance abuse authority or by  
199 contract, for adults, youth, and children, including those incarcerated in a county  
200 jail or other county correctional facility; [~~and~~]

- 201 (ii) primary prevention, targeted prevention, early intervention, and treatment  
202 services; and
- 203 (iii) in a form and format usable by a first responder, a comprehensive list of  
204 substance use services available for individuals within the local substance abuse  
205 authority's jurisdiction;
- 206 (c) establish and maintain, either directly or by contract, programs licensed under Title  
207 26B, Chapter 2, Part 1, Human Services Programs and Facilities;
- 208 (d) appoint directly or by contract a full or part time director for substance use programs,  
209 and prescribe the director's duties;
- 210 (e) provide input and comment on new and revised rules established by the division;
- 211 (f) establish and require contract providers to establish administrative, clinical,  
212 procurement, personnel, financial, and management policies regarding substance use  
213 services and facilities, in accordance with the rules of the division, and state and  
214 federal law;
- 215 (g) establish mechanisms allowing for direct citizen input;
- 216 (h) annually contract with the division to provide substance use programs and services in  
217 accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use  
218 and Mental Health;
- 219 (i) comply with all applicable state and federal statutes, policies, audit requirements,  
220 contract requirements, and any directives resulting from those audits and contract  
221 requirements;
- 222 (j) promote or establish programs for the prevention of substance use within the  
223 community setting through community-based prevention programs;
- 224 (k) provide funding equal to at least 20% of the state funds that it receives to fund  
225 services described in the plan;
- 226 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
227 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts,  
228 and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
229 Organizations, and Other Local Entities Act;
- 230 (m) for persons convicted of driving under the influence in violation of Section  
231 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:
- 232 (i) a screening;
- 233 (ii) an assessment;
- 234 (iii) an educational series; and

- 235 (iv) substance [~~use~~] abuse treatment; and
- 236 (n) utilize proceeds of the accounts described in Subsection 26B-5-209(1) to supplement
- 237 the cost of providing the services described in Subsection (5)(m).
- 238 (6) Before disbursing any public funds, each local substance abuse authority shall require
- 239 that each entity that receives any public funds from the local substance abuse authority
- 240 agrees in writing that:
- 241 (a) the entity's financial records and other records relevant to the entity's performance of
- 242 the services provided to the local substance abuse authority shall be subject to
- 243 examination by:
- 244 (i) the division;
- 245 (ii) the local substance abuse authority director;
- 246 (iii)(A) the county treasurer and county or district attorney; or
- 247 (B) if two or more counties jointly provide substance use services under an
- 248 agreement under Subsection (2), the designated treasurer and the designated
- 249 legal officer;
- 250 (iv) the county legislative body; and
- 251 (v) in a county with a county executive that is separate from the county legislative
- 252 body, the county executive;
- 253 (b) the county auditor may examine and audit the entity's financial and other records
- 254 relevant to the entity's performance of the services provided to the local substance
- 255 abuse authority; and
- 256 (c) the entity will comply with the provisions of Subsection (4)(b).
- 257 (7) A local substance abuse authority may receive property, grants, gifts, supplies,
- 258 materials, contributions, and any benefit derived therefrom, for substance abuse services.
- 259 If those gifts are conditioned upon their use for a specified service or program, they shall
- 260 be so used.
- 261 (8)(a) As used in this section, "public funds" means the same as that term is defined in
- 262 Section 17-43-203.
- 263 (b) Public funds received for the provision of services pursuant to the local substance
- 264 abuse plan may not be used for any other purpose except those authorized in the
- 265 contract between the local substance abuse authority and the provider for the
- 266 provision of plan services.
- 267 (9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment
- 268 Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all



- 269 substance use treatment programs that receive public funds:
- 270 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
- 271 and
- 272 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24
- 273 hours of the time that a request for admission is made, provide a comprehensive
- 274 referral for interim services that:
- 275 (i) are accessible to the pregnant woman or pregnant minor;
- 276 (ii) are best suited to provide services to the pregnant woman or pregnant minor;
- 277 (iii) may include:
- 278 (A) counseling;
- 279 (B) case management; or
- 280 (C) a support group; and
- 281 (iv) shall include a referral for:
- 282 (A) prenatal care; and
- 283 (B) counseling on the effects of alcohol and drug use during pregnancy.

284 (10) If a substance use treatment program described in Subsection (9) is not able to accept

285 and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of

286 the time that request for admission is made, the local substance abuse authority shall

287 contact the Division of Integrated Healthcare for assistance in providing services to the

288 pregnant woman or pregnant minor.

289 Section 4. Section **17-43-301** is amended to read:

290 **17-43-301 . Local mental health authorities -- Responsibilities.**

- 291 (1) As used in this section:
- 292 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
- 293 26B-5-301.
- 294 (b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.
- 295 (c) "Local mental health crisis line" means the same as that term is defined in Section
- 296 26B-5-610.
- 297 (d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 298 (e) "Public funds" means the same as that term is defined in Section 17-43-303.
- 299 (f) "Statewide mental health crisis line" means the same as that term is defined in
- 300 Section 26B-5-610.
- 301 (2)(a)(i) In each county operating under a county executive-council form of
- 302 government under Section 17-52a-203, the county legislative body is the local

- 303 mental health authority, provided however that any contract for plan services shall  
304 be administered by the county executive.
- 305 (ii) In each county operating under a council-manager form of government under  
306 Section 17-52a-204, the county manager is the local mental health authority.
- 307 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the  
308 county legislative body is the local mental health authority.
- 309 (b) Within legislative appropriations and county matching funds required by this section,  
310 under the direction of the division, each local mental health authority shall:
- 311 (i) provide mental health services to individuals within the county; and  
312 (ii) cooperate with efforts of the division to promote integrated programs that address  
313 an individual's substance use, mental health, and physical healthcare needs, as  
314 described in Section 26B-5-102.
- 315 (c) Within legislative appropriations and county matching funds required by this section,  
316 each local mental health authority shall cooperate with the efforts of the department  
317 to promote a system of care, as defined in Section 26B-5-101, for minors with or at  
318 risk for complex emotional and behavioral needs, as described in Section [~~26B-1-202~~]  
319 26B-5-101.
- 320 (3)(a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
321 Cooperation Act, two or more counties may join to:
- 322 (i) provide mental health prevention and treatment services; or  
323 (ii) create a united local health department that combines substance use treatment  
324 services, mental health services, and local health department services in  
325 accordance with Subsection (4).
- 326 (b) The legislative bodies of counties joining to provide services may establish  
327 acceptable ways of apportioning the cost of mental health services.
- 328 (c) Each agreement for joint mental health services shall:
- 329 (i)(A) designate the treasurer of one of the participating counties or another  
330 person as the treasurer for the combined mental health authorities and as the  
331 custodian of money available for the joint services; and  
332 (B) provide that the designated treasurer, or other disbursing officer authorized by  
333 the treasurer, may make payments from the money available for the joint  
334 services upon audit of the appropriate auditing officer or officers representing  
335 the participating counties;
- 336 (ii) provide for the appointment of an independent auditor or a county auditor of one

- 337 of the participating counties as the designated auditing officer for the combined  
338 mental health authorities;
- 339 (iii)(A) provide for the appointment of the county or district attorney of one of the  
340 participating counties as the designated legal officer for the combined mental  
341 health authorities; and
- 342 (B) authorize the designated legal officer to request and receive the assistance of  
343 the county or district attorneys of the other participating counties in defending  
344 or prosecuting actions within their counties relating to the combined mental  
345 health authorities; and
- 346 (iv) provide for the adoption of management, clinical, financial, procurement,  
347 personnel, and administrative policies as already established by one of the  
348 participating counties or as approved by the legislative body of each participating  
349 county or interlocal board.
- 350 (d) An agreement for joint mental health services may provide for:
- 351 (i) joint operation of services and facilities or for operation of services and facilities  
352 under contract by one participating local mental health authority for other  
353 participating local mental health authorities; and
- 354 (ii) allocation of appointments of members of the mental health advisory council  
355 between or among participating counties.
- 356 (4) A county governing body may elect to combine the local mental health authority with  
357 the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,  
358 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health  
359 Department Act, to create a united local health department under Section 26A-1-105.5.  
360 A local mental health authority that joins with a united local health department shall  
361 comply with this part.
- 362 (5)(a) Each local mental health authority is accountable to the department and the state  
363 with regard to the use of state and federal funds received from those departments for  
364 mental health services, regardless of whether the services are provided by a private  
365 contract provider.
- 366 (b) Each local mental health authority shall comply, and require compliance by its  
367 contract provider, with all directives issued by the department regarding the use and  
368 expenditure of state and federal funds received from those departments for the  
369 purpose of providing mental health programs and services. The department shall  
370 ensure that those directives are not duplicative or conflicting, and shall consult and

371 coordinate with local mental health authorities with regard to programs and services.

372 (6)(a) Each local mental health authority shall:

373 (i) review and evaluate mental health needs and services, including mental health  
374 needs and services for:

375 (A) an individual incarcerated in a county jail or other county correctional facility;  
376 and

377 (B) an individual who is a resident of the county and who is court ordered to  
378 receive assisted outpatient treatment under Section 26B-5-351;

379 (ii) in accordance with [~~Subsection (6)(b)~~] Subsections (6)(b) and (c), annually  
380 prepare and submit to the division a plan approved by the county legislative body  
381 for mental health funding and service delivery, either directly by the local mental  
382 health authority or by contract;

383 (iii) establish and maintain, either directly or by contract, programs licensed under  
384 Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

385 (iv) appoint, directly or by contract, a full-time or part-time director for mental health  
386 programs and prescribe the director's duties;

387 (v) provide input and comment on new and revised rules established by the division;

388 (vi) establish and require contract providers to establish administrative, clinical,  
389 personnel, financial, procurement, and management policies regarding mental  
390 health services and facilities, in accordance with the rules of the division, and state  
391 and federal law;

392 (vii) establish mechanisms allowing for direct citizen input;

393 (viii) annually contract with the division to provide mental health programs and  
394 services in accordance with the provisions of Title 26B, Chapter 5, Health Care -  
395 Substance Use and Mental Health;

396 (ix) comply with all applicable state and federal statutes, policies, audit requirements,  
397 contract requirements, and any directives resulting from those audits and contract  
398 requirements;

399 (x) provide funding equal to at least 20% of the state funds that it receives to fund  
400 services described in the plan;

401 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
402 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special  
403 Districts, and Title 51, Chapter 2a, Accounting Reports from Political  
404 Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

- 405 (xii) take and retain physical custody of minors committed to the physical custody of  
406 local mental health authorities by a judicial proceeding under Title 26B, Chapter  
407 5, Part 4, Commitment of Persons Under Age 18.
- 408 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and  
409 children, which shall include:
- 410 (i) inpatient care and services;
  - 411 (ii) residential care and services;
  - 412 (iii) outpatient care and services;
  - 413 (iv) 24-hour crisis care and services;
  - 414 (v) psychotropic medication management;
  - 415 (vi) psychosocial rehabilitation, including vocational training and skills development;
  - 416 (vii) case management;
  - 417 (viii) community supports, including in-home services, housing, family support  
418 services, and respite services;
  - 419 (ix) consultation and education services, including case consultation, collaboration  
420 with other county service agencies, public education, and public information; and
  - 421 (x) services to persons incarcerated in a county jail or other county correctional  
422 facility.
- 423 (c) Each plan under Subsection (6)(a)(ii) shall include, in a form and format usable by a  
424 first responder, a comprehensive list of mental health services available for  
425 individuals within the local mental health authority's jurisdiction.
- 426 (7)(a) If a local mental health authority provides for a local mental health crisis line  
427 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv),  
428 the local mental health authority shall:
- 429 (i) collaborate with the statewide mental health crisis line described in Section  
430 26B-5-610;
  - 431 (ii) ensure that each individual who answers calls to the local mental health crisis line:  
432 (A) is a mental health therapist or a crisis worker; and  
433 (B) meets the standards of care and practice established by the Division of  
434 Integrated Healthcare, in accordance with Section 26B-5-610; and
  - 435 (iii) ensure that when necessary, based on the local mental health crisis line's  
436 capacity, calls are immediately routed to the statewide mental health crisis line to  
437 ensure that when an individual calls the local mental health crisis line, regardless  
438 of the time, date, or number of individuals trying to simultaneously access the

439 local mental health crisis line, a mental health therapist or a crisis worker answers  
440 the call without the caller first:

441 (A) waiting on hold; or

442 (B) being screened by an individual other than a mental health therapist or crisis  
443 worker.

444 (b) If a local mental health authority does not provide for a local mental health crisis line  
445 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv),  
446 the local mental health authority shall use the statewide mental health crisis line as a  
447 local crisis line resource.

448 (8) Before disbursing any public funds, each local mental health authority shall require that  
449 each entity that receives any public funds from a local mental health authority agrees in  
450 writing that:

451 (a) the entity's financial records and other records relevant to the entity's performance of  
452 the services provided to the mental health authority shall be subject to examination  
453 by:

454 (i) the division;

455 (ii) the local mental health authority director;

456 (iii)(A) the county treasurer and county or district attorney; or

457 (B) if two or more counties jointly provide mental health services under an  
458 agreement under Subsection (3), the designated treasurer and the designated  
459 legal officer;

460 (iv) the county legislative body; and

461 (v) in a county with a county executive that is separate from the county legislative  
462 body, the county executive;

463 (b) the county auditor may examine and audit the entity's financial and other records  
464 relevant to the entity's performance of the services provided to the local mental health  
465 authority; and

466 (c) the entity will comply with the provisions of Subsection (5)(b).

467 (9) A local mental health authority may receive property, grants, gifts, supplies, materials,  
468 contributions, and any benefit derived therefrom, for mental health services. If those  
469 gifts are conditioned upon their use for a specified service or program, they shall be so  
470 used.

471 (10) Public funds received for the provision of services pursuant to the local mental health  
472 plan may not be used for any other purpose except those authorized in the contract

473 between the local mental health authority and the provider for the provision of plan  
474 services.

475 (11) A local mental health authority shall provide assisted outpatient treatment services to a  
476 resident of the county who has been ordered under Section 26B-5-351 to receive assisted  
477 outpatient treatment.

478 Section 5. Section **17-53-223** is amended to read:

479 **17-53-223 . Ordinances -- Power to enact -- Penalty for violation.**

480 (1) A county legislative body may:

481 (a) pass all ordinances and rules and make all regulations, not repugnant to law,  
482 necessary for carrying into effect or discharging the powers and duties conferred by  
483 this title, and as are necessary and proper to provide for the safety, and preserve the  
484 health, promote the prosperity, improve the morals, peace, and good order, comfort,  
485 and convenience of the county and its inhabitants, and for the protection of property  
486 in the county;

487 (b) enforce obedience to ordinances with fines or penalties as the county legislative body  
488 considers proper; and

489 (c) pass ordinances to control air pollution.

490 (2)(a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the  
491 maximum fine for a class B misdemeanor under Section 76-3-301, imprisonment, or  
492 both fine and imprisonment.

493 (b) Notwithstanding Subsection (2)(a), a county may not impose a criminal penalty  
494 greater than an infraction for a violation pertaining to an individual's pet, as defined  
495 in Section 4-12-102, or an individual's use of the individual's residence unless:

496 (i) the violation:

497 (A) is a nuisance as that term is defined in [~~Subsection 78B-6-1101(1)~~] Section  
498 78B-6-1101; and

499 (B) threatens the health, safety, or welfare of the individual or an identifiable third  
500 party; or

501 (ii) the county has imposed a fine on the individual for a violation that involves the  
502 same residence or pet on three previous occasions within the past 12 months.

503 (c) Subsection (2)(b) does not apply to county enforcement of a building code or fire  
504 code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

505 (d) When a penalty for a violation of an ordinance includes any possibility of  
506 imprisonment, the county legislative body shall include in the ordinance a statement

- 507 that the county is required, under Section 78B-22-301, to provide for indigent  
 508 defense services, as that term is defined in Section 78B-22-102.
- 509 (e) Notwithstanding any other provision of law, the following may issue a criminal  
 510 citation for a violation that is punished as a misdemeanor if the violation threatens the  
 511 health and safety of an animal or the public:
- 512 (i) a fire officer described in Section 53-7-102;  
 513 (ii) a law enforcement officer described in Section 53-13-103; or  
 514 (iii) an animal control officer described in Section 11-46-102.

515 (3)(a) Except as specifically authorized by statute, the county legislative body may not  
 516 impose a civil penalty for the violation of a county traffic ordinance.

517 (b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles  
 518 on a highway.

519 (4) A county may not issue more than one infraction within a 14-day period for a violation  
 520 described in Subsection (2)(b) that is ongoing.

521 Section 6. Section **26B-5-121** is enacted to read:

522 **26B-5-121 . Voluntary referrals to substance use and mental health services by**  
 523 **first responders -- Immunity from liability -- Reporting -- Rulemaking.**

524 (1) As used in this section:

525 (a) "First responder" means:

- 526 (i) a law enforcement officer, as that term is defined in Section 53-13-103;  
 527 (ii) emergency medical service personnel, as that term is defined in Section 53-2d-101;  
 528 (iii) an emergency medical technician, as that term is defined in Section 53-2e-101;  
 529 (iv) an advanced emergency medical technician, as that term is defined in Section  
 530 53-2e-101;  
 531 (v) a firefighter, as that term is defined in Section 53B-8c-102; or  
 532 (vi) a dispatcher, as that term is defined in Section 53-6-102.

533 (b) "Local services list" means a comprehensive list of local substance use or mental  
 534 health services, as described in Subsections 17-43-201(5)(b)(iii) and 17-43-301(6)(c).

535 (2) As and when appropriate, a first responder is encouraged to offer a referral to substance  
 536 use or mental health services to an individual who experiences an intentional or  
 537 accidental overdose.

538 (3) If an individual expresses interest in substance use or mental health services, a first  
 539 responder may, as appropriate:

540 (a) facilitate a real-time connection with an appropriate local service provider;



- 541 (b) contact the statewide 988 crisis line for assistance; or  
 542 (c) if the individual does not wish to speak with a service provider at that time, provide  
 543 the individual with a physical copy of a local services list.
- 544 (4)(a) This section does not create a duty for a first responder to offer or provide a  
 545 referral to substance use or mental health services.
- 546 (b) A first responder and an employer of a first responder are not liable under this  
 547 section for a first responder's action or failure to act in regards to offering or  
 548 providing a referral to substance use or mental health services as described in this  
 549 section.
- 550 (c) This section does not affect any privilege or immunity from liability, exemption from  
 551 law, ordinance, or rule, or any other benefit that applies to a first responder or an  
 552 employer of a first responder.
- 553 (5)(a) If a first responder offers a referral to substance use or mental health services as  
 554 described in this section, the first responder's employer shall report annually to the  
 555 division the total number of individuals who accepted a referral from all first  
 556 responders employed by the employer.
- 557 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
 558 Administrative Rulemaking Act, specifying how the reports required by Subsection  
 559 (5)(a) shall be submitted.
- 560 Section 7. Section **26B-7-117** is amended to read:  
 561 **26B-7-117 . Syringe exchange and education.**
- 562 (1) The following may operate a syringe exchange program in the state to prevent the  
 563 transmission of disease and reduce morbidity and mortality among individuals who  
 564 inject drugs, and those individuals' contacts:
- 565 (a) a government entity, including:  
 566 (i) the department;  
 567 (ii) a local health department; or  
 568 (iii) a local substance abuse authority, as defined in Section 26B-5-101;
- 569 (b) a nongovernment entity, including:  
 570 (i) a nonprofit organization; or  
 571 (ii) a for-profit organization; or  
 572 (c) any other entity that complies with Subsections (2) and [~~3~~] (4).
- 573 (2) An entity operating a syringe exchange program in the state shall:  
 574 (a) facilitate the exchange of an individual's used syringe for one or more new syringes

- 575 in sealed sterile packages;
- 576 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
- 577 (i) methods for preventing the transmission of blood-borne diseases, including
- 578 hepatitis C and human immunodeficiency virus; and
- 579 (ii) options for obtaining:
- 580 (A) services for the treatment of a substance use disorder;
- 581 (B) testing for a blood-borne disease; and
- 582 (C) an opiate antagonist, as that term is defined in Section 26B-4-501; and
- 583 (c) report annually to the department the following information about the program's
- 584 activities:
- 585 (i) the number of individuals who have exchanged syringes;
- 586 (ii) the number of used syringes exchanged for new syringes;~~and~~
- 587 (iii) the number of new syringes provided in exchange for used syringes~~[-]~~ ; and
- 588 (iv) of the individuals who have exchanged syringes, the number of individuals who
- 589 received services for the treatment of a substance use disorder within 12 months
- 590 of exchanging syringes.
- 591 (3) A person that contracts with the department to provide treatment for a substance use
- 592 disorder shall include as part of the person's admissions materials a question asking
- 593 whether the individual seeking treatment has ever received services from a syringe
- 594 exchange program.
- 595 [~~3~~] (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 596 Administrative Rulemaking Act, specifying how and when an entity operating a syringe
- 597 exchange program shall make the report required by Subsection (2)(c).
- 598 (5) An entity operating a syringe exchange program in the state may not facilitate the
- 599 exchange of syringes at a location described in Subsection 58-37-8(4)(a).
- 600 Section 8. Section **58-17b-309.8** is enacted to read:
- 601 **58-17b-309.8 . Mobile medication assisted treatment units.**
- 602 (1) As used in this section, "mobile unit" means a mobile unit that provides medication,
- 603 such as buprenorphine, methadone, or naltrexone, to treat substance use withdrawal
- 604 symptoms or an opioid use disorder.
- 605 (2) A substance use disorder treatment provider may operate one or more mobile units to
- 606 serve individuals without a fixed address and other individuals as appropriate.
- 607 (3)(a) A mobile unit shall be operated as an extension of a pharmacy license held by the
- 608 substance use disorder treatment provider.

- 609        (b) The pharmacist-in-charge who is responsible for the operation of a substance use  
 610            disorder treatment provider's pharmacy license shall determine the number of mobile  
 611            units that may be operated as an extension of the pharmacy license.
- 612    (4) A mobile unit may dispense prescription medication pursuant to a valid prescription,  
 613            including a prescription of a physician who practices in the mobile unit, only if the  
 614            mobile unit meets all of the following requirements:
- 615        (a) while prescription medications are being dispensed, a licensed pharmacist shall be  
 616            present in person at the mobile unit and the mobile unit shall be under the control and  
 617            management of the licensed pharmacist;
- 618        (b) all activities of a pharmacist working with the mobile unit, including the dispensing  
 619            of medication from the mobile unit, shall be undertaken in compliance with the  
 620            provisions of this chapter and division rules; and
- 621        (c) medication may not be left in the mobile unit during the hours that the mobile unit is  
 622            not in operation.
- 623    (5) A substance use disorder treatment provider that intends to operate a mobile unit shall  
 624            notify the division and board of that intention as soon as possible, but not later than five  
 625            business days after the mobile unit begins operating.
- 626    (6) A substance use disorder treatment provider that intends to discontinue operation of a  
 627            mobile unit shall notify the division and board of that intention as soon as possible, but  
 628            not later than one business day before the mobile unit discontinues operating.
- 629    (7) The Department of Health and Human Services may make rules, in accordance with  
 630            Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this  
 631            section, to establish requirements for the operation of a mobile unit.

632        Section 9. Section **58-37-8** is amended to read:

633        **58-37-8 . Prohibited acts -- Penalties.**

- 634    (1) Prohibited acts A -- Penalties and reporting:
- 635        (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and  
 636            intentionally:
- 637            (i) produce, manufacture, or dispense, or to possess with intent to produce,  
 638            manufacture, or dispense, a controlled or counterfeit substance;
- 639            (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or  
 640            arrange to distribute a controlled or counterfeit substance;
- 641            (iii) possess a controlled or counterfeit substance with intent to distribute; or
- 642            (iv) engage in a continuing criminal enterprise where:

- 643 (A) the person participates, directs, or engages in conduct that results in a  
644 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter  
645 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled  
646 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a  
647 felony; and
- 648 (B) the violation is a part of a continuing series of two or more violations of this  
649 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation  
650 Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor  
651 Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are  
652 undertaken in concert with five or more persons with respect to whom the  
653 person occupies a position of organizer, supervisor, or any other position of  
654 management.
- 655 (b) A person convicted of violating Subsection (1)(a) with respect to:
- 656 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a  
657 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule  
658 III is guilty of a second degree felony, punishable by imprisonment for not more  
659 than 15 years, and upon a second or subsequent conviction is guilty of a first  
660 degree felony;
- 661 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
662 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree  
663 felony, and upon a second or subsequent conviction is guilty of a second degree  
664 felony; or
- 665 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a  
666 class A misdemeanor and upon a second or subsequent conviction is guilty of a  
667 third degree felony.
- 668 (c)(i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted  
669 of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment  
670 for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter  
671 3, Punishments.
- 672 (ii) The court shall impose an indeterminate prison term for a person who has been  
673 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony  
674 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,  
675 during the commission or furtherance of the violation, the person intentionally or  
676 knowingly:

- 677 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in  
678 Section 76-10-501, that is not a firearm, in an angry, threatening, intimidating,  
679 or coercive manner;
- 680 (B) used a firearm or had a firearm readily accessible for immediate use, as those  
681 terms are defined in Section 76-10-501; or
- 682 (C) distributed a firearm, as that term is defined in Section 76-10-501, or  
683 possessed a firearm with intent to distribute the firearm.
- 684 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate  
685 prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 686 (A) details on the record the reasons why it is in the interests of justice not to  
687 impose the indeterminate prison term;
- 688 (B) makes a finding on the record that the person does not pose a significant  
689 safety risk to the public; and
- 690 (C) orders the person to complete the terms and conditions of supervised  
691 probation provided by the Department of Corrections.
- 692 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
693 felony punishable by imprisonment for an indeterminate term of not less than:
- 694 (A) seven years and which may be for life; or
- 695 (B) 15 years and which may be for life if the trier of fact determined that the  
696 defendant knew or reasonably should have known that any subordinate under  
697 Subsection (1)(a)(iv)(B) was under 18 years old.
- 698 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
699 not eligible for probation.
- 700 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the  
701 offense, was under 18 years old.
- 702 (e) The Administrative Office of the Courts shall report to the Division of Professional  
703 Licensing the name, case number, date of conviction, and if known, the date of birth  
704 of each person convicted of violating Subsection (1)(a).
- 705 (2) Prohibited acts B -- Penalties and reporting:
- 706 (a) It is unlawful:
- 707 (i) for a person knowingly and intentionally to possess or use a controlled substance  
708 analog or a controlled substance, unless it was obtained under a valid prescription  
709 or order, directly from a practitioner while acting in the course of the person's  
710 professional practice, or as otherwise authorized by this chapter;

- 711 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,  
712 vehicle, boat, aircraft, or other place to knowingly and intentionally [to permit  
713 them to be occupied by persons unlawfully possessing, using, or distributing  
714 controlled substances in any of those locations] permit a person to occupy the  
715 building, room, tenement, vehicle, boat, aircraft, or other place while the person is  
716 unlawfully manufacturing, possessing, using, or distributing a controlled  
717 substance at that location; or
- 718 (iii) for a person knowingly and intentionally to possess an altered or forged  
719 prescription or written order for a controlled substance.
- 720 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
- 721 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree  
722 felony; or
- 723 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is  
724 guilty of:
- 725 (A) a class A misdemeanor on a first [~~or second~~] conviction[;] ; and  
726 (B) a third degree felony on a [third] second or subsequent conviction if each prior  
727 offense was committed within seven years before the date of the offense upon  
728 which the current conviction is based[ is guilty of a third degree felony].
- 729 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
730 conviction under Subsection (1)(a), that person shall be sentenced to a one degree  
731 greater penalty than provided in this Subsection (2).
- 732 (d)(i) Upon a person's second conviction of a violation of this Subsection (2), the  
733 court may:
- 734 (A) suspend the imposition or execution of the sentence contingent upon the  
735 person's completion of a drug court program as described in Section 78A-5-201;  
736 (B) suspend the imposition or execution of the sentence contingent upon the  
737 person's completion of a treatment plan recommended by an addiction  
738 specialist and approved by the court; or
- 739 (C) require the person to undergo an examination concerning the criteria for  
740 essential treatment described in Section 26B-5-504 and, if the court determines  
741 based on the results of the examination that the person meets the criteria for  
742 essential treatment, the court may suspend the imposition or execution of the  
743 sentence contingent upon the person's completion of essential treatment  
744 ordered by the court.

745           (ii) The court shall impose or execute a sentence suspended under Subsection  
 746           (2)(d)(i) for a person who fails to comply with the requirements of the drug court  
 747           program, court-approved treatment plan, or court-ordered essential treatment.

748   ~~[(d)]~~ ~~(e)~~(i) A person who violates Subsection (2)(a)(i) with respect to all other  
 749           controlled substances not included in Subsection (2)(b)(i) or (ii), including a  
 750           substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B  
 751           misdemeanor.

752   ~~[(f)]~~ ~~(ii)~~ Upon a third conviction the person is guilty of a class A misdemeanor, if each  
 753           prior offense was committed within seven years before the date of the offense  
 754           upon which the current conviction is based.

755   ~~[(g)]~~ ~~(iii)~~ Upon a fourth or subsequent conviction the person is guilty of a third degree  
 756           felony if each prior offense was committed within seven years before the date of  
 757           the offense upon which the current conviction is based.

758   ~~[(e)]~~ ~~(f)~~ A person convicted of violating Subsection (2)(a)(i) while inside the exterior  
 759           boundaries of property occupied by a correctional facility as defined in Section  
 760           64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty  
 761           one degree greater than provided in Subsection (2)(b), and if the conviction is with  
 762           respect to controlled substances as listed in:

763           (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
 764           indeterminate term as provided by law, and:  
 765           (A) the court shall additionally sentence the person convicted to a term of one year  
 766           to run consecutively and not concurrently; and

767           (B) the court may additionally sentence the person convicted for an indeterminate  
 768           term not to exceed five years to run consecutively and not concurrently; and

769           (ii) Subsection ~~[(2)(d)]~~ ~~(2)~~(e), the person may be sentenced to imprisonment for an  
 770           indeterminate term as provided by law, and the court shall additionally sentence  
 771           the person convicted to a term of six months to run consecutively and not  
 772           concurrently.

773   ~~[(f)]~~ ~~(g)~~ A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

774           (i) on a first conviction, guilty of a class B misdemeanor;

775           (ii) on a second conviction, guilty of a class A misdemeanor; and

776           (iii) on a third or subsequent conviction, guilty of a third degree felony.

777   ~~[(g)]~~ ~~(h)~~ The Administrative Office of the Courts shall report to the Division of  
 778           Professional Licensing the name, case number, date of conviction, and if known, the

- 779 date of birth of each person convicted of violating Subsection (2)(a).
- 780 (3) Prohibited acts C -- Penalties:
- 781 (a) It is unlawful for a person knowingly and intentionally:
- 782 (i) to use in the course of the manufacture or distribution of a controlled substance a
- 783 license number which is fictitious, revoked, suspended, or issued to another
- 784 person or, for the purpose of obtaining a controlled substance, to assume the title
- 785 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,
- 786 dentist, veterinarian, or other authorized person;
- 787 (ii) to acquire or obtain possession of, to procure or attempt to procure the
- 788 administration of, to obtain a prescription for, to prescribe or dispense to a person
- 789 known to be attempting to acquire or obtain possession of, or to procure the
- 790 administration of a controlled substance by misrepresentation or failure by the
- 791 person to disclose receiving a controlled substance from another source, fraud,
- 792 forgery, deception, subterfuge, alteration of a prescription or written order for a
- 793 controlled substance, or the use of a false name or address;
- 794 (iii) to make a false or forged prescription or written order for a controlled substance,
- 795 or to utter the same, or to alter a prescription or written order issued or written
- 796 under the terms of this chapter; or
- 797 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed
- 798 to print, imprint, or reproduce the trademark, trade name, or other identifying
- 799 mark, imprint, or device of another or any likeness of any of the foregoing upon
- 800 any drug or container or labeling so as to render a drug a counterfeit controlled
- 801 substance.
- 802 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
- 803 misdemeanor.
- 804 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
- 805 degree felony.
- 806 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- 807 (4) Prohibited acts D -- Penalties:
- 808 (a) Notwithstanding other provisions of this section, a person not authorized under this
- 809 chapter who commits any act that is unlawful under Subsection (1)(a) or Section
- 810 58-37b-4 is upon conviction subject to the penalties and classifications under this
- 811 Subsection (4) if the trier of fact finds the act is committed:
- 812 (i) in a public or private elementary or secondary school or on the grounds of any of



- 813 those schools during the hours of 6 a.m. through 10 p.m.;
- 814 (ii) in a public or private vocational school or postsecondary institution or on the  
815 grounds of any of those schools or institutions during the hours of 6 a.m. through  
816 10 p.m.;
- 817 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
818 facility's hours of operation;
- 819 (iv) in a public park, amusement park, arcade, or recreation center when the public or  
820 amusement park, arcade, or recreation center is open to the public;
- 821 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;
- 822 (vi) in or on the grounds of a library when the library is open to the public;
- 823 (vii) within an area that is within 100 feet of any structure, facility, or grounds  
824 included in Subsections (4)(a)(i) through (vi);
- 825 (viii) in the presence of a person younger than 18 years old, regardless of where the  
826 act occurs; or
- 827 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or  
828 distribution of a substance in violation of this section to an inmate or on the  
829 grounds of a correctional facility as defined in Section 76-8-311.3.
- 830 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony  
831 and shall be imprisoned for a term of not less than five years if the penalty that  
832 would otherwise have been established but for this Subsection (4) would have  
833 been a first degree felony.
- 834 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
835 not eligible for probation.
- 836 (c) If the classification that would otherwise have been established would have been less  
837 than a first degree felony but for this Subsection (4), a person convicted under this  
838 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for  
839 that offense.
- 840 (d)(i) If the violation is of Subsection (4)(a)(ix):
- 841 (A) the person may be sentenced to imprisonment for an indeterminate term as  
842 provided by law, and the court shall additionally sentence the person convicted  
843 for a term of one year to run consecutively and not concurrently; and
- 844 (B) the court may additionally sentence the person convicted for an indeterminate  
845 term not to exceed five years to run consecutively and not concurrently; and
- 846 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with

- 847 the mental state required for the commission of an offense, directly or indirectly  
848 solicits, requests, commands, coerces, encourages, or intentionally aids another  
849 person to commit a violation of Subsection (4)(a)(ix).
- 850 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 851 (i) the actor mistakenly believed the individual to be 18 years old or older at the time  
852 of the offense or was unaware of the individual's true age; or
- 853 (ii) the actor mistakenly believed that the location where the act occurred was not as  
854 described in Subsection (4)(a) or was unaware that the location where the act  
855 occurred was as described in Subsection (4)(a).
- 856 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 857 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
858 guilty or no contest to a violation or attempted violation of this section or a plea  
859 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the  
860 equivalent of a conviction, even if the charge has been subsequently reduced or  
861 dismissed in accordance with the plea in abeyance agreement.
- 862 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
863 conviction that is:
- 864 (i) from a separate criminal episode than the current charge; and
- 865 (ii) from a conviction that is separate from any other conviction used to enhance the  
866 current charge.
- 867 (7) A person may be charged and sentenced for a violation of this section, notwithstanding  
868 a charge and sentence for a violation of any other section of this chapter.
- 869 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,  
870 a civil or administrative penalty or sanction authorized by law.
- 871 (b) When a violation of this chapter violates a federal law or the law of another state,  
872 conviction or acquittal under federal law or the law of another state for the same act  
873 is a bar to prosecution in this state.
- 874 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person  
875 or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
876 substance or substances, is prima facie evidence that the person or persons did so with  
877 knowledge of the character of the substance or substances.
- 878 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
879 veterinarian's professional practice only and not for humans, from prescribing,  
880 dispensing, or administering controlled substances or from causing the substances to be

881 administered by an assistant or orderly under the veterinarian's direction and supervision.

882 (11) Civil or criminal liability may not be imposed under this section on:

883 (a) a person registered under this chapter who manufactures, distributes, or possesses an  
884 imitation controlled substance for use as a placebo or investigational new drug by a  
885 registered practitioner in the ordinary course of professional practice or research;

886 (b) a law enforcement officer acting in the course and legitimate scope of the officer's  
887 employment; or

888 (c) a healthcare facility, substance use harm reduction services program, or drug  
889 addiction treatment facility that temporarily possesses a controlled or counterfeit  
890 substance to conduct a test or analysis on the controlled or counterfeit substance to  
891 identify or analyze the strength, effectiveness, or purity of the substance for a public  
892 health or safety reason.

893 (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,  
894 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide  
895 traditional ceremonial purposes in connection with the practice of a traditional Indian  
896 religion as defined in Section 58-37-2.

897 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
898 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or  
899 transported by an Indian for bona fide traditional ceremonial purposes in connection  
900 with the practice of a traditional Indian religion.

901 (c)(i) The defendant shall provide written notice of intent to claim an affirmative  
902 defense under this Subsection (12) as soon as practicable, but not later than 10  
903 days before trial.

904 (ii) The notice shall include the specific claims of the affirmative defense.

905 (iii) The court may waive the notice requirement in the interest of justice for good  
906 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely  
907 notice.

908 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a  
909 preponderance of the evidence. If the defense is established, it is a complete defense  
910 to the charges.

911 (13)(a) It is an affirmative defense that the person produced, possessed, or administered  
912 a controlled substance listed in Section 58-37-4.2 if the person was:

913 (i) engaged in medical research; and

914 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

- 915 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a  
916 controlled substance listed in Section 58-37-4.2.
- 917 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled  
918 substance listed in Section 58-37-4.2 if:
- 919 (a) the person was the subject of medical research conducted by a holder of a valid  
920 license to possess controlled substances under Section 58-37-6; and
- 921 (b) the substance was administered to the person by the medical researcher.
- 922 (15) The application of any increase in penalty under this section to a violation of  
923 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.  
924 This Subsection (15) takes precedence over any conflicting provision of this section.
- 925 (16)(a) It is an affirmative defense to an allegation of the commission of an offense  
926 listed in Subsection (16)(b) that the person or bystander:
- 927 (i) reasonably believes that the person or another person is experiencing an overdose  
928 event due to the ingestion, injection, inhalation, or other introduction into the  
929 human body of a controlled substance or other substance;
- 930 (ii) reports, or assists a person who reports, in good faith the overdose event to a  
931 medical provider, an emergency medical service provider as defined in Section  
932 53-2d-101, a law enforcement officer, a 911 emergency call system, or an  
933 emergency dispatch system, or the person is the subject of a report made under  
934 this Subsection (16);
- 935 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
936 actual location of the overdose event that facilitates responding to the person  
937 experiencing the overdose event;
- 938 (iv) remains at the location of the person experiencing the overdose event until a  
939 responding law enforcement officer or emergency medical service provider  
940 arrives, or remains at the medical care facility where the person experiencing an  
941 overdose event is located until a responding law enforcement officer arrives;
- 942 (v) cooperates with the responding medical provider, emergency medical service  
943 provider, and law enforcement officer, including providing information regarding  
944 the person experiencing the overdose event and any substances the person may  
945 have injected, inhaled, or otherwise introduced into the person's body; and
- 946 (vi) is alleged to have committed the offense in the same course of events from which  
947 the reported overdose arose.
- 948 (b) The offenses referred to in Subsection (16)(a) are:

- 949 (i) the possession or use of less than 16 ounces of marijuana;
- 950 (ii) the possession or use of a scheduled or listed controlled substance other than
- 951 marijuana; and
- 952 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
- 953 Imitation Controlled Substances Act.
- 954 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
- 955 include seeking medical assistance under this section during the course of a law
- 956 enforcement agency's execution of a search warrant, execution of an arrest warrant,
- 957 or other lawful search.
- 958 (17) If any provision of this chapter, or the application of any provision to any person or
- 959 circumstances, is held invalid, the remainder of this chapter shall be given effect without
- 960 the invalid provision or application.
- 961 (18) A legislative body of a political subdivision may not enact an ordinance that is less
- 962 restrictive than any provision of this chapter.
- 963 (19) If a minor who is under 18 years old is found by a court to have violated this section or
- 964 Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
- 965 complete:
- 966 (a) a screening as defined in Section 41-6a-501;
- 967 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
- 968 assessment to be appropriate; and
- 969 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
- 970 treatment as indicated by an assessment.
- 971 Section 10. Section **58-37f-201** is amended to read:
- 972 **58-37f-201 . Controlled substance database -- Creation -- Purpose.**
- 973 (1) There is created within the division a controlled substance database.
- 974 (2) The division shall administer and direct the functioning of the database in accordance
- 975 with this chapter.
- 976 (3) The division may, under state procurement laws, contract with another state agency or a
- 977 private entity to establish, operate, or maintain the database.
- 978 (4) The division shall, in collaboration with the board, determine whether to operate the
- 979 database within the division or contract with another entity to operate the database,
- 980 based on an analysis of costs and benefits.
- 981 (5) The purpose of the database is to contain:
- 982 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed

- 983 controlled substances;
- 984 (b) data reported to the division under Section 26B-2-225 regarding poisoning or  
985 overdose;
- 986 (c) data reported to the division under Subsection 41-6a-502(5) or 41-6a-502.5(5)(b)  
987 regarding convictions for driving under the influence of a prescribed controlled  
988 substance or impaired driving; and
- 989 (d) data reported to the division under Subsection 58-37-8(1)(e) or [~~58-37-8(2)(g)~~]  
990 58-37-8(2)(h) regarding certain violations of Chapter 37, Utah Controlled Substances  
991 Act.
- 992 (6) The division shall maintain the database in an electronic file or by other means  
993 established by the division to facilitate use of the database for identification of:
- 994 (a) prescribing practices and patterns of prescribing and dispensing controlled  
995 substances;
- 996 (b) practitioners prescribing controlled substances in an unprofessional or unlawful  
997 manner;
- 998 (c) individuals receiving prescriptions for controlled substances from licensed  
999 practitioners, and who subsequently obtain dispensed controlled substances from a  
1000 drug outlet in quantities or with a frequency inconsistent with generally recognized  
1001 standards of dosage for that controlled substance;
- 1002 (d) individuals presenting forged or otherwise false or altered prescriptions for  
1003 controlled substances to a pharmacy;
- 1004 (e) individuals admitted to a general acute hospital for poisoning or overdose involving a  
1005 prescribed controlled substance; and
- 1006 (f) individuals convicted for:
- 1007 (i) driving under the influence of a prescribed controlled substance that renders the  
1008 individual incapable of safely operating a vehicle;
- 1009 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance;  
1010 or
- 1011 (iii) certain violations of Chapter 37, Utah Controlled Substances Act.

1012 Section 11. Section **58-37f-704** is amended to read:

1013 **58-37f-704 . Entering certain convictions into the database.**

1014 Beginning October 1, 2016, if the division receives a report from a court under  
1015 Subsection 58-37-8(1)(e) or [~~58-37-8(2)(g)~~] 58-37-8(2)(h), the division shall daily enter into  
1016 the database the information supplied in the report.

1017 Section 12. Section **76-10-801** is amended to read:

1018 **76-10-801 . Definitions.**

1019 [~~(1) A nuisance is any item, thing, manner, condition whatsoever that is dangerous to~~  
 1020 ~~human life or health or renders soil, air, water, or food impure or unwholesome.] As used  
 1021 in this part:~~

1022 (1) "Controlled substance" means the same as that term is defined in Section 58-37-2.

1023 (2) "Nuisance" means an item, thing, manner, or condition that:

1024 (a) is dangerous to human life or health; or

1025 (b) renders soil, air, water, or food impure or unwholesome.

1026 [~~(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or~~  
 1027 ~~contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a~~  
 1028 ~~class B misdemeanor.]~~

1029 (3)(a) "Supervised drug consumption site" means a facility or premises operated or  
 1030 intended to provide an environment for the unlawful use of a controlled substance.

1031 (b) "Supervised drug consumption site" does not include a facility or premises that  
 1032 provides or facilitates:

1033 (i) an opioid treatment program, as that term is defined in Section 58-17b-309.7; or

1034 (ii) the use of medication pursuant to a medication assisted treatment plan, as that  
 1035 term is defined in Section 64-13-25.1.

1036 Section 13. Section **76-10-803** is amended to read:

1037 **76-10-803 . "Public nuisance" defined -- Agricultural operations -- Critical**  
 1038 **infrastructure materials operations.**

1039 (1) A public nuisance is a crime against the order and economy of the state and consists in  
 1040 unlawfully doing any act or omitting to perform any duty, which act or omission:

1041 (a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more  
 1042 persons;

1043 (b) offends public decency;

1044 (c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for  
 1045 passage, any lake, stream, canal, or basin, or any public park, square, street, or  
 1046 highway;

1047 (d) is a nuisance as described in Section 78B-6-1107; or

1048 (e) in any way renders three or more persons insecure in life or the use of property.

1049 (2) An act which affects three or more persons in any of the ways specified in this section is  
 1050 still a nuisance regardless of the extent to which the annoyance or damage inflicted on

1051 individuals is unequal.

1052 (3)(a) Activities conducted in the normal and ordinary course of agricultural operations,  
1053 as defined in Section 4-44-102, and conducted in accordance with sound agricultural  
1054 practices are presumed to be reasonable and not constitute a public nuisance under  
1055 Subsection (1).

1056 (b) Agricultural operations undertaken in conformity with federal, state, and local laws  
1057 and regulations, including zoning ordinances, are presumed to be operating within  
1058 sound agricultural practices.

1059 (4)(a) Activities conducted in the normal and ordinary course of critical infrastructure  
1060 materials operations, as that term is defined in [Subsection 78B-6-1101(8)] Section  
1061 78B-6-1101, and conducted in accordance with sound critical infrastructure materials  
1062 practices are presumed to be reasonable and not constitute a public nuisance under  
1063 Subsection (1).

1064 (b) Critical infrastructure materials operations undertaken in conformity with federal,  
1065 state, and local laws and regulations, including zoning ordinances, are presumed to be  
1066 operating within sound critical infrastructure materials operations.

1067 Section 14. Section **76-10-803.1** is enacted to read:

1068 **76-10-803.1 . Maintenance of a drug-involved premises.**

1069 (1) Terms defined in Sections 76-1-101.5 and 76-10-801 apply to this section.

1070 (2) An actor commits maintenance of a drug-involved premises if the actor knowingly:

1071 (a) opens, leases, rents, uses, or maintains any facility or premises, whether permanently  
1072 or temporarily, for the purpose of the unlawful manufacturing, distributing, or using  
1073 any controlled substance;

1074 (b)(i) manages or controls any facility or premises, whether permanently or  
1075 temporarily, as an owner, tenant, lessee, agent, employee, occupant, or mortgagee;  
1076 and

1077 (ii) intentionally rents, leases, profits from, or makes available for use, with or  
1078 without compensation, the facility or premises for the purpose of unlawfully  
1079 manufacturing, storing, distributing, or using a controlled substance;

1080 (c) operates a supervised drug consumption site; or

1081 (d) as an owner, tenant, lessee, agent, employee, occupant, or mortgagee, intentionally  
1082 opens, rents, leases profits from, maintains, or makes available for use, with or  
1083 without compensation, any premises for the purpose of operating a supervised drug  
1084 consumption site.



1085 (3) A violation of Subsection (2) is a second degree felony.

1086 Section 15. Section **78B-6-1101** is amended to read:

1087 **78B-6-1101 . Definitions -- Nuisance -- Agriculture operations.**

1088 (1) [~~A nuisance is anything that is injurious to health, indecent, offensive to the senses, or~~  
1089 ~~an obstruction to the free use of property, so as to interfere with the comfortable~~  
1090 ~~enjoyment of life or property.~~] As used in this part:

1091 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

1092 (b) "Critical infrastructure materials operations" means the same as that term is defined  
1093 in Section 10-9a-901.

1094 (c) "Manufacturing facility" means a factory, plant, or other facility including its  
1095 appurtenances, where the form of raw materials, processed materials, commodities,  
1096 or other physical objects is converted or otherwise changed into other materials,  
1097 commodities, or physical objects or where such materials, commodities, or physical  
1098 objects are combined to form a new material, commodity, or physical object.

1099 (d) "Nuisance" means anything that is injurious to health, indecent, offensive to the  
1100 senses, or an obstruction to the free use of property, so as to interfere with the  
1101 comfortable enjoyment of life or property.

1102 (e)(i) "Possession or use" means the joint or individual ownership, control,  
1103 occupancy, holding, retaining, belonging, maintaining, or the application,  
1104 inhalation, swallowing, injection, or consumption, as distinguished from  
1105 distribution, of a controlled substance, and includes individual, joint, or group  
1106 possession or use of a controlled substance.

1107 (ii) For a person to be a possessor or user of a controlled substance, it is not required  
1108 that the person be shown to have individually possessed, used, or controlled the  
1109 substance, but it is sufficient if it is shown that the person jointly participated with  
1110 one or more persons in the use, possession, or control of a controlled substance  
1111 with knowledge that the activity was occurring, or the controlled substance is  
1112 found in a place or under circumstances indicating that the person had the ability  
1113 and the intent to exercise dominion and control over it.

1114 (2) A nuisance may be the subject of an action.

1115 [(2)] (3) A nuisance may include the following:

1116 (a) drug houses and drug dealing as provided in Section 78B-6-1107;

1117 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

1118 (c) criminal activity committed in concert with three or more persons as provided in

- 1119 Section 76-3-203.1;
- 1120 (d) criminal activity committed for the benefit of, at the direction of, or in association  
1121 with any criminal street gang as defined in Section 76-9-802;
- 1122 (e) criminal activity committed to gain recognition, acceptance, membership, or  
1123 increased status with a criminal street gang as defined in Section 76-9-802;
- 1124 (f) party houses that frequently create conditions defined in Subsection ~~[(1)]; and~~ (1)(d);  
1125 or
- 1126 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1127 ~~[(3)]~~ (4) A nuisance under this part includes:
- 1128 (a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from  
1129 another residential or commercial unit and the smoke:
- 1130 ~~[(a)]~~ (i) drifts in more than once in each of two or more consecutive seven-day  
1131 periods; and
- 1132 ~~[(b)]~~ (ii) creates any of the conditions ~~[under]~~ described in Subsection ~~[(1)];~~ (1)(d); or
- 1133 (b) fumes resulting from the unlawful manufacturing or the unlawful possession or use  
1134 of a controlled substance that drift into a residential unit a person rents, leases, or  
1135 owns, from another residential or commercial unit.
- 1136 ~~[(4)]~~ (5) Subsection ~~[(3)]~~ (4)(a) does not apply to:
- 1137 (a) a residential rental unit available for temporary rental, such as for a vacation, or  
1138 available for only 30 or fewer days at a time; or
- 1139 (b) a hotel or motel room.
- 1140 ~~[(5)]~~ (6) Subsection ~~[(3)]~~ (4)(a) does not apply to a unit that is part of a timeshare  
1141 development, as defined in Section 57-19-2, or subject to a timeshare interest as defined  
1142 in Section 57-19-2.
- 1143 ~~[(6) An action may be brought by a person whose property is injuriously affected, or  
1144 whose personal enjoyment is lessened by the nuisance.]~~
- 1145 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter  
1146 44, Agricultural Operations Nuisances Act.
- 1147 ~~[(8) "Critical infrastructure materials operations" means the same as that term is defined in  
1148 Section 10-9a-901.]~~
- 1149 ~~[(9) "Manufacturing facility" means a factory, plant, or other facility including its  
1150 appurtenances, where the form of raw materials, processed materials, commodities, or  
1151 other physical objects is converted or otherwise changed into other materials,  
1152 commodities, or physical objects or where such materials, commodities, or physical~~

1153 ~~objects are combined to form a new material, commodity, or physical object.]~~

1154 Section 16. Section **78B-6-1102** is amended to read:

1155 **78B-6-1102 . Right of action -- Remedies -- Jurisdiction for enforcement.**

1156 (1) An action for nuisance may be brought before a court with jurisdiction by any person  
1157 whose property is injuriously affected, or whose personal enjoyment is lessened by the  
1158 nuisance.

1159 (2) Upon judgment, the ~~[nuisance may be enjoined or abated, and damages may be~~  
1160 ~~recovered]~~ court may:

1161 (a) award damages;

1162 (b) order the nuisance to be enjoined or abated, which may include:

1163 (i) requiring a defendant to make repairs to the nuisance property or property that is  
1164 injuriously affected by the nuisance;

1165 (ii) requiring a defendant to:

1166 (A) install and maintain secure locks on the nuisance property's doors or windows;

1167 (B) provide security personnel or video surveillance monitoring of the nuisance  
1168 property; or

1169 (C) install and maintain lighting in and around common areas; or

1170 (iii) abatement by eviction as provided in this part;

1171 (c) grant declaratory relief as described in Part 4, Declaratory Judgments;

1172 (d) award costs and reasonable attorney fees to the prevailing party as described in  
1173 Section 76B-6-1114; or

1174 (e) grant any other relief the court considers just and proper.

1175 (3) A court that issues a judgment or order under this part retains jurisdiction to enforce the  
1176 judgment or order.

1177 Section 17. Section **78B-6-1102.5** is amended to read:

1178 **78B-6-1102.5 . Violation of order enjoining a nuisance.**

1179 A person who knowingly violates any judgment or order abating or ~~[otherwise-]~~  
1180 enjoining a nuisance, as that term is defined ~~[under]~~ in Section 78B-6-1101, is guilty of a class  
1181 B misdemeanor.

1182 Section 18. Section **78B-6-1103** is amended to read:

1183 **78B-6-1103 . Manufacturing facility in operation over three years -- Limited**  
1184 **application of restrictions.**

1185 (1)(a) Notwithstanding Sections 76-10-803 and 78B-6-1101, a manufacturing facility [  
1186 ~~or operation]~~ may not be considered a nuisance~~[, private or public, by virtue]~~ because

- 1187 of any changed circumstance in land uses near the facility ~~[after it]~~ if:
- 1188 (i) the manufacturing facility has been in operation for more than three years~~[-if]~~ ; and
- 1189 (ii) the manufacturing facility~~[-or operation]~~ was not a nuisance at the time it began
- 1190 operation.
- 1191 (b) The manufacturing facility may not increase the condition asserted to be a nuisance.
- 1192 (c) The provisions of this Subsection (1) do not apply if a nuisance results from the
- 1193 negligent or improper operation of a manufacturing facility.
- 1194 (2) ~~[The provisions of Subsection (1) may not affect or defeat]~~ Nothing in this section
- 1195 affects the right of ~~[any]~~ a person to recover damages for ~~[any-]~~injuries or damage
- 1196 sustained ~~[because of any pollution of, or change in the condition of,]~~ as a result of the
- 1197 pollution or change in the conditions of the waters of ~~[any]~~ a stream or ~~[the-]~~overflow of
- 1198 the lands of any person.
- 1199 (3)(a) Any and all ordinances now or in the future adopted by any county or municipal
- 1200 corporation in which a manufacturing facility is located and which makes its
- 1201 operation a nuisance or providing for an abatement as a nuisance in the circumstances
- 1202 set forth in this section are null and void.
- 1203 (b) The provisions of this Subsection (3) may not apply whenever a nuisance results
- 1204 from the negligent or improper operation of a manufacturing facility.
- 1205 Section 19. Section **78B-6-1106** is amended to read:
- 1206 **78B-6-1106 . Rental units -- Tobacco smoke -- Drug fumes.**
- 1207 (1) There is no cause of action for a nuisance under Subsection ~~[78B-6-1101(3)]~~
- 1208 78B-6-1101(4)(a) if the rental, lease, restrictive covenant, or purchase agreement for the
- 1209 unit states in writing that:
- 1210 (a) tobacco smoking is allowed in other units, either residential or commercial, and that
- 1211 tobacco smoke from those units may drift into the unit that is subject to the
- 1212 agreement; and
- 1213 (b) by signing the agreement the renter, lessee, or buyer acknowledges he has been
- 1214 informed that tobacco smoke may drift into the unit he is renting, leasing, or
- 1215 purchasing, and he waives any right to a cause of action for a nuisance under
- 1216 Subsection ~~[78B-6-1101(3)]~~ 78B-6-1101(4).
- 1217 (2) A cause of action for a nuisance under Subsection ~~[78B-6-1101(3)]~~ 78B-6-1101(4)(a)
- 1218 may be brought against:
- 1219 (a) the individual generating the tobacco smoke;
- 1220 (b) the renter or lessee who permits or fails to control the generation of tobacco smoke,

- 1221 in violation of the terms of the rental or lease agreement, on the premises [he] the  
 1222 renter or lessee rents or leases; or
- 1223 (c) the landlord, but only if:
- 1224 (i) the terms of the renter's or lessee's contract provide the unit will not be subject to  
 1225 the nuisance of drifting tobacco smoke;
- 1226 (ii) the complaining renter or lessee has provided to the landlord a statement in  
 1227 writing indicating that tobacco smoke is creating a nuisance in the renter's or  
 1228 lessee's unit; and
- 1229 (iii) the landlord knowingly allows the continuation of a nuisance under Subsection [  
 1230 78B-6-1101(3)] 78B-6-1101(4) after receipt of written notice under Subsection  
 1231 (2)(c)(ii), and in violation of the terms of the rental or lease agreement under  
 1232 Subsection (2)(c)(i).
- 1233 (3) A cause of action for nuisance under Subsection 78B-6-1101(4)(b) may be brought  
 1234 against:
- 1235 (a) an individual who generates fumes by the unlawful manufacturing or the unlawful  
 1236 possession or use of a controlled substance;
- 1237 (b) a renter or lessee who permits or fails to control the generation of fumes from the  
 1238 unlawful manufacturing or the unlawful possession or use of a controlled substance  
 1239 on the premises the renter or lessee rents or leases; or
- 1240 (c) a landlord, but only if:
- 1241 (i) the complaining renter or lessee has provided to the landlord a statement in  
 1242 writing indicating that fumes from the unlawful manufacturing or the unlawful  
 1243 possession or use of a controlled substance are creating a nuisance in the renter's  
 1244 or lessee's unit; and
- 1245 (ii) the landlord knowingly allows the continuation of a nuisance under Subsection  
 1246 78B-6-1101(4)(b) after receipt of written notice under Subsection (3)(c)(i).
- 1247 Section 20. Section **78B-6-1107** is amended to read:
- 1248 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**  
 1249 **criminal activity -- Party house -- Prostitution -- Weapons -- Defense.**
- 1250 (1) Every building or place is a nuisance where:
- 1251 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, [~~or~~]  
 1252 acquisition, or possession or use occurs of any controlled substance, precursor, or  
 1253 analog [~~specified~~] described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 1254 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title

1255 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as that  
 1256 term is defined in Subsection 78B-6-1101(1);

1257 (c) criminal activity is committed in concert with three or more persons as [~~provided~~]  
 1258 described in Section 76-3-203.1;

1259 (d) criminal activity is committed for the benefit of, at the direction of, or in association  
 1260 with any criminal street gang as defined in Section 76-9-802;

1261 (e) criminal activity is committed to gain recognition, acceptance, membership, or  
 1262 increased status with a criminal street gang as defined in Section 76-9-802;

1263 (f) parties occur frequently which create the conditions of a nuisance as that term is  
 1264 defined in Subsection 78B-6-1101(1);

1265 (g) prostitution or promotion of prostitution is regularly carried on by one or more  
 1266 persons as [~~provided~~] described in Title 76, Chapter 10, Part 13, Prostitution; and

1267 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

1268 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the  
 1269 defendant is lawfully entitled to the possession or use of a controlled substance.

1270 [~~(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of~~  
 1271 ~~the nuisance as defined in Subsection (1).]~~

1272 (3) Evidence of a previous conviction for a crime described in Subsection (1) may not be  
 1273 used in an action for nuisance under this part.

1274 Section 21. Section **78B-6-1108** is amended to read:

1275 **78B-6-1108 . Nuisance -- Abatement by eviction.**

1276 (1) [~~Whenever there is reason to believe that a nuisance under Sections 78B-6-1107 through~~  
 1277 ~~78B-6-1114 is kept, maintained, or exists in any county, the county attorney of the~~  
 1278 ~~county, the city attorney of any incorporated city, any citizen or citizens of the state~~  
 1279 ~~residing in the county, or any corporation, partnership or business doing business in the~~  
 1280 ~~county, in his or their own names,] A person whose property is injuriously affected or  
 1281 whose personal enjoyment is lessened by a nuisance described in Section 78B-6-1107  
 1282 may [maintain] bring an action for abatement by eviction in a court [of competent] with  
 1283 jurisdiction[ ~~to abate the nuisance and obtain an order for the automatic eviction of the~~  
 1284 ~~tenant].~~~~

1285 (2)(a) A group of citizens may bring an action for abatement by eviction under this  
 1286 section if each citizen in the group would have the right to bring an action  
 1287 individually.

1288 (b) The court may designate a spokesperson [~~of any~~] from a group of citizens [~~who~~

1289 would otherwise have the right to maintain an action in their individual names against  
 1290 the defendant under this section] described in Subsection (2)(a) to represent the group  
 1291 of citizens through the course of the action.

1292 Section 22. Section **78B-6-1109** is amended to read:

1293 **78B-6-1109 . Abatement by eviction order -- Grounds.**

1294 [~~An order of abatement by eviction may issue only upon a showing by the applicant]~~ A  
 1295 court shall issue an order of abatement by eviction if the applicant shows, by a preponderance  
 1296 of the evidence, that:

1297 (1) the applicant will suffer irreparable harm unless the order of abatement by eviction  
 1298 issues;

1299 (2) the threatened injury to the applicant outweighs [~~whatever~~] any damage the proposed  
 1300 order of abatement by eviction may cause the party [~~so ordered~~] to be evicted;

1301 (3) the order of abatement by eviction [~~, if issued,~~] would not be adverse to the public  
 1302 interest; and

1303 (4) there is a substantial likelihood that:

1304 (a) the applicant will prevail on the merits of the underlying claim[~~;~~] ; or

1305 (b) the case presents serious issues on the merits which should be the subject of further  
 1306 litigation.

1307 Section 23. Section **78B-6-1110** is amended to read:

1308 **78B-6-1110 . Prior acts or threats of violence -- Protection of witness.**

1309 At the time of application for abatement of [~~the~~] a nuisance by eviction pursuant to  
 1310 Sections 78B-6-1108 and 78B-6-1109, if proof of the existence of the nuisance depends, in  
 1311 whole or in part, upon the affidavits of [~~witnesses who are not peace officers~~] a witness who is  
 1312 not a peace officer, upon a showing of prior threats of violence or acts of violence by any  
 1313 defendant or other person, the court may issue orders to protect [~~those witnesses~~] the witness,  
 1314 including, nondisclosure of the name, address, or any other information which may identify [~~those witnesses~~]  
 1315 the witness.

1316 Section 24. Section **78B-6-1111** is amended to read:

1317 **78B-6-1111 . Landlord, owner, or designated agent -- Necessary party --**  
 1318 **Automatic eviction.**

1319 (1) A landlord, owner, or designated agent is a necessary party defendant in a nuisance  
 1320 action under Sections 78B-6-1107 through 78B-6-1114 for entry of an order to abate the  
 1321 nuisance by eviction where the acts complained of are those of [~~third parties~~] a third party  
 1322 upon the premises of the landlord, owner, or designated agent.

- 1323 (2) ~~[In the presence of the applicant, the tenant and the landlord, owner, or designated agent~~  
 1324 ~~at-]~~ At the court's hearing on the action to abate the nuisance by eviction, the court shall  
 1325 notify the necessary parties~~[of its finding that]~~ , including the applicant, the tenant, and  
 1326 the landlord, owner, or designated agent, if:
- 1327 (a) the court finds that a nuisance exists as ~~[defined]~~ described in Section 78B-6-1107;  
 1328 and
- 1329 (b) as a result, the court is issuing an order to evict the tenant subject to compliance with  
 1330 the security requirement in Section 78B-6-1112.
- 1331 (3) In all cases, including default judgments, the order of abatement by eviction may be  
 1332 issued and enforced immediately.
- 1333 Section 25. Section **78B-6-1112** is amended to read:
- 1334 **78B-6-1112 . Security requirement -- Amount not a limitation -- Jurisdiction over**  
 1335 **surety.**
- 1336 (1)(a) The court shall condition issuance of ~~[the]~~ an order of abatement by eviction on  
 1337 the giving of security by the applicant, in such sum and form as the court determines  
 1338 proper, unless:
- 1339 (i) ~~[it appears]~~ the court determines that none of the parties will incur or suffer costs,  
 1340 attorney fees, or damage as the result of any wrongful order of abatement by  
 1341 eviction~~[, or]~~ ;
- 1342 (ii) ~~[unless]~~ the court determines that there exists some ~~[other-]~~substantial reason for  
 1343 dispensing with the requirement of security~~[-]~~ ; or
- 1344 (iii) the applicant has proved, by a preponderance of the evidence, the existence of a  
 1345 nuisance described in Section 78B-6-1107.
- 1346 (b) ~~[No such security shall]~~ Security described in Subsection (1)(a) may not be required:
- 1347 (i) of the United States, the ~~[State of Utah]~~ state, or ~~[of-]~~an officer, agency, or  
 1348 subdivision of ~~[either; nor shall it be required]~~ the United States or the state; or
- 1349 (ii) when ~~[it is-]~~prohibited by law.
- 1350 (2) The amount of security ~~[shall not establish or]~~ may not limit the ~~[amount of costs,~~  
 1351 ~~including]~~ award of:
- 1352 (a) reasonable attorney fees or costs incurred in connection with the order of abatement  
 1353 by eviction~~[-]~~ ; or
- 1354 (b) damages that may be awarded to a party who is found to have been wrongfully  
 1355 evicted.
- 1356 (3)(a) A surety upon a bond or undertaking under this section submits to the jurisdiction



1357 of the court and irrevocably appoints the clerk of the court as agent upon whom any  
1358 papers affecting the surety's liability on the bond or undertaking may be served.

1359 (b) The surety's liability may be enforced on motion without the necessity of an  
1360 independent action.

1361 (c) The motion and such notice of the motion as the court prescribes may be served on  
1362 the clerk of the court who shall immediately ~~[mail copies to the persons giving the~~  
1363 ~~security if their addresses are known]~~ provide a copy to the applicant or other person  
1364 giving the security by the means established at the time of the application.

1365 (4) ~~[The plaintiff, upon demand,]~~ Upon request, the applicant shall be granted a hearing to  
1366 be held ~~[prior to the expiration of]~~ no later than three days from the date the defendant is  
1367 served with notice of the ~~[plaintiff's]~~ applicant's giving of security, as ~~[provided]~~ described  
1368 in Subsection ~~[78B-6-1112(1)]~~ (1).

1369 Section 26. Section **78B-6-1113** is amended to read:

1370 **78B-6-1113 . Evidence of nuisance.**

1371 ~~[In any action for abatement by eviction instituted pursuant to Sections 78B-6-1107~~  
1372 ~~through 78B-6-1114]~~ In an action for nuisance or abatement by eviction, all evidence [  
1373 otherwise] authorized by law, including evidence of reputation in a community, is admissible  
1374 to prove the existence of a nuisance or the elements required for an order of abatement by  
1375 eviction by a preponderance of the evidence.

1376 Section 27. Section **78B-6-1114** is amended to read:

1377 **78B-6-1114 . Award of costs and attorney fees.**

1378 (1) The court may award costs, including the costs of investigation and discovery, and  
1379 reasonable attorney fees, which are not compensated for pursuant to some other  
1380 provision of law, to the prevailing party in any case in which ~~[a governmental agency,~~  
1381 ~~private citizen or citizens, corporation, partnership, or business seeks to abate the~~  
1382 ~~nuisance by eviction in or upon any building or place where the nuisance occurs as~~  
1383 ~~provided in Section 78B-6-1107]~~ a party brings an action to abate a nuisance under this  
1384 part.

1385 (2) The court may award costs, including the costs of investigation and discovery, and  
1386 reasonable attorney fees against a defendant landlord, owner, or designated agent only  
1387 when the court finds that the defendant landlord, owner, or designated agent had actual  
1388 notice of the nuisance action and willfully failed to take reasonable action within a  
1389 reasonable time to abate the nuisance.

1390 Section 28. **Repealer.**

- 1391            This bill repeals:
- 1392            Section **78B-6-1105, Tobacco smoke -- Legislative intent.**
- 1393            Section 29. **Effective Date.**
- 1394            This bill takes effect on May 7, 2025.