

Jason B. Kyle proposes the following substitute bill:

Recovery Residence Services Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason B. Kyle

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses residential programs and services.

Highlighted Provisions:

This bill:

- modifies definitions;
- delineates residential recovery services from residential vocational or life skills programs;
- removes an application requirement for residential vocational or life skills programs; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 13-2-1**, as last amended by Laws of Utah 2024, Chapter 132
- 13-53-101**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-102**, as last amended by Laws of Utah 2023, Chapter 458
- 13-53-103**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-104**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-105**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-106**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-107**, as last amended by Laws of Utah 2019, Chapter 349
- 13-53-108**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-109**, as enacted by Laws of Utah 2018, Chapter 252
- 13-53-110**, as enacted by Laws of Utah 2018, Chapter 252

- 29 **13-53-111**, as last amended by Laws of Utah 2023, Chapter 177
 30 **26B-2-101**, as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
 31 **26B-5-102**, as last amended by Laws of Utah 2024, Chapters 250, 420
 32 **63M-7-204**, as last amended by Laws of Utah 2024, Chapter 345
 33 **64-13-21**, as last amended by Laws of Utah 2024, Chapters 208, 434
 34 **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234

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

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

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

- 39 (1) There is established within the Department of Commerce the Division of Consumer
 40 Protection.
- 41 (2) The division shall administer and enforce the following:
- 42 (a) Chapter 10a, Music Licensing Practices Act;
 43 (b) Chapter 11, Utah Consumer Sales Practices Act;
 44 (c) Chapter 15, Business Opportunity Disclosure Act;
 45 (d) Chapter 20, New Motor Vehicle Warranties Act;
 46 (e) Chapter 21, Credit Services Organizations Act;
 47 (f) Chapter 22, Charitable Solicitations Act;
 48 (g) Chapter 23, Health Spa Services Protection Act;
 49 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
 50 (i) Chapter 26, Telephone Fraud Prevention Act;
 51 (j) Chapter 28, Prize Notices Regulation Act;
 52 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
 53 Transaction Information Act;
 54 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
 55 (m) Chapter 41, Price Controls During Emergencies Act;
 56 (n) Chapter 42, Uniform Debt-Management Services Act;
 57 (o) Chapter 49, Immigration Consultants Registration Act;
 58 (p) Chapter 51, Transportation Network Company Registration Act;
 59 (q) Chapter 52, Residential Solar Energy Disclosure Act;
 60 (r) Chapter 53, [~~Residential, Vocational and Life Skills~~] Residential Vocational or Life
 61 Skills Program Act;
 62 (s) Chapter 54, Ticket Website Sales Act;

- 63 (t) Chapter 56, Ticket Transferability Act;
- 64 (u) Chapter 57, Maintenance Funding Practices Act;
- 65 (v) Chapter 61, Utah Consumer Privacy Act;
- 66 [~~(w)~~ Chapter 63, Utah Social Media Regulation Act;]
- 67 [~~(x)~~ (w) Chapter 64, Vehicle Value Protection Agreement Act;
- 68 [~~(y)~~ (x) Chapter 65, Utah Commercial Email Act;
- 69 [~~(z)~~ (y) Chapter 67, Online Dating Safety Act;
- 70 [~~(aa)~~ (z) Chapter 68, Lawyer Referral Consultants Registration Act;
- 71 [~~(bb)~~ (aa) Chapter 70, Automatic Renewal Contracts Act; and
- 72 [~~(ee)~~ (bb) Chapter 71, Utah Minor Protection in Social Media Act.
- 73 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 74 division may make rules to establish:
- 75 (a) a public list that identifies a person who:
- 76 (i) violates a chapter described in Subsection (2);
- 77 (ii) without proper legal justification, fails to comply with an order, subpoena,
- 78 judgment, or other legal process issued by:
- 79 (A) the division; or
- 80 (B) a court of competent jurisdiction; or
- 81 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance,
- 82 or similar instrument signed by the person and the division; and
- 83 (b) a process by which a person may be removed from the list the division establishes as
- 84 described in Subsection (3)(a).

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

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

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

88 "Residential Vocational or Life Skills Program Act."

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

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

91 As used in this chapter:

- 92 (1) "Division" means the Division of Consumer Protection.
- 93 (2) "Human services program" means the same as that term is defined in Section 26B-2-101.
- 94 (3) "Participant" means an individual who:
- 95 (a) resides at a [~~residential, vocational and life skills]~~ residential vocational or life skills
- 96 program facility;

- 97 (b) receives from the [~~residential, vocational and life skills~~] residential vocational or life
 98 skills program:
- 99 (i) vocational training; or
 100 (ii) life skills training; and
- 101 (c) does not receive monetary compensation from the [~~residential, vocational and life~~
 102 skills] residential vocational or life skills program.
- 103 (4) "Postsecondary school" means the same as that term is defined in Section 13-34-101.
- 104 (5) "[~~Residential, vocational and life skills~~] Residential vocational or life skills program"
 105 means a program that:
- 106 (a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;
 107 (b) does not accept local, state, or federal government funding, government grant
 108 money, or any other form of government assistance to operate or provide services or
 109 training;
 110 (c) operates on a mutually voluntary basis with each participant;
 111 (d) houses at a program facility in this state participants who are unrelated to an owner
 112 or a manager of the program facility without charging money for lodging, food,
 113 clothing, or training;
 114 (e) may house transitional graduates for a fee;
 115 [~~(f) provides vocational training to participants;~~]
 116 [~~(g)~~] (f) provides vocational or life skills training to participants;
 117 [~~(h)~~] (g) maintains a director or senior staff member at a program facility at all times
 118 when the facility is in use;
 119 [~~(i)~~] (h) does not provide mental health services;
 120 [~~(j)~~] (i) does not provide substance use disorder treatment;
 121 [~~(k)~~] (j) does not accept payment from an insurance provider for a participant;
 122 [~~(l)~~] (k) does not award a degree, diploma, or other educational credential commensurate
 123 with a degree or diploma;
 124 [~~(m)~~] (l) does not hold itself out as a human services program; and
 125 [~~(n)~~] (m) does not hold itself out as a postsecondary school.
- 126 (6) "Transitional graduate" means an individual who:
- 127 (a) graduated from a [~~residential, vocational and life skills~~] residential vocational or life
 128 skills program;
 129 (b) continues to reside at the [~~residential, vocational and life skills~~] residential vocational
 130 or life skills program facility; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

163 [(i) if the organization is a charitable organization, as defined by Section 13-22-2, a copy
164 of the charitable organization's registration or exemption;]

165 ~~(j)~~ (i) financial information described in Subsection 13-53-108(1);
 166 ~~(k)~~ (j) proof of a commercial general liability and umbrella insurance policy providing
 167 at least a \$1,000,000 per occurrence limit of liability;
 168 ~~(l)~~ (k) a copy of the disclosure required under Section 13-53-106;
 169 ~~(m)~~ (l) evidence that the applicant meets the description of a ~~[residential, vocational and~~
 170 ~~life skills]~~ residential vocational or life skills program under Subsection 13-53-102(5);
 171 and
 172 ~~(n)~~ (m) additional information that the division requires, as provided in administrative
 173 rule.

174 (3) A ~~[residential, vocational and life skills]~~ residential vocational or life skills program is
 175 registered on the day that the division issues the registration.

176 (4) The division's issuance of a registration for a ~~[residential, vocational and life skills]~~
 177 residential vocational or life skills program does not constitute the state's or the
 178 division's endorsement or approval of the ~~[residential, vocational and life skills]~~
 179 residential vocational or life skills program.

180 (5) An applicant for the registration of a ~~[residential, vocational and life skills]~~ residential
 181 vocational or life skills program shall file a separate application and pay a separate
 182 application fee for each ~~[residential, vocational and life skills]~~ residential vocational or
 183 life skills program location.

184 (6) The division may make rules in accordance with Title 63G, Chapter 3, Utah
 185 Administrative Rulemaking Act, to implement the registration application process.

186 (7) The division may set fees in accordance with Section 63J-1-504 for a ~~[residential,~~
 187 ~~vocational and life skills]~~ residential vocational or life skills program registration
 188 application.

189 Section 5. Section **13-53-104** is amended to read:

190 **13-53-104 . Registration denial, suspension, or revocation.**

191 (1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter
 192 4, Administrative Procedures Act, the division may initiate proceedings to deny,
 193 suspend, or revoke the registration of a ~~[residential, vocational and life skills]~~ residential
 194 vocational or life skills program, if:

195 (a) the entity holding the registration fails to meet the description of a ~~[residential,~~
 196 ~~vocational and life skills]~~ residential vocational or life skills program under
 197 Subsection 13-53-102(5);

198 (b) the operation of the ~~[residential, vocational and life skills]~~ residential vocational or

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

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

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

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

- 233 (1) operate without a registration issued under Section 13-53-103;
- 234 (2) utilize any behavioral intervention that is not peer-led or that uses the services of any
235 professional or any person purporting to be a professional;
- 236 (3) accept a participant before providing to the participant the disclosure described in
237 Section 13-53-106; or
- 238 (4) use physical force or permit the use of physical force.
- 239 Section 7. Section **13-53-106** is amended to read:
- 240 **13-53-106 . Disclosure to participants.**
- 241 (1) Before accepting a participant, a [~~residential, vocational and life skills~~] residential
242 vocational or life skills program shall provide to the prospective participant a written
243 disclosure.
- 244 (2) The written disclosure shall include:
- 245 (a) a statement that the program is a registered [~~residential, vocational and life skills~~]
246 residential vocational or life skills program, but that the [~~residential, vocational and~~
247 ~~life skills~~] residential vocational or life skills program is not endorsed by the state or
248 the division;
- 249 (b) a statement that the prospective participant's continuation in the program is voluntary
250 and that a participant may leave at any time;
- 251 (c) the conditions under which a participant is removed from the [~~residential, vocational~~
252 ~~and life skills~~] residential vocational or life skills program or required to leave a
253 program facility;
- 254 (d) a statement that the [~~residential, vocational and life skills~~] residential vocational or
255 life skills program will contact Adult Probation and Parole, if required by law; and
- 256 (e) a description of:
- 257 (i) the lodging, food, clothing, and other resources that are available to a participant;
- 258 (ii) the nature and scope of the [~~residential, vocational and life skills~~] residential
259 vocational or life skills program, including any activities or work that a participant
260 is required to perform;
- 261 (iii) the scope and substance of peer-led activities;
- 262 (iv) the types of vocational training available to a participant, including the
263 limitations on availability;
- 264 (v) the nature and extent of possible exposure to profanity, accusation, confrontation,
265 nonphysical threats, or nonphysical corrective interaction;
- 266 (vi) the terms of any prohibition from contact with a participant's family, friends, or

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

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

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

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

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

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

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

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

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

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

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

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

- 342 (a) the intended date of closure; and
- 343 (b) the plan described in Subsection (1).

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

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

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

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

- 351 (a) annually perform an on-site inspection of a registered [~~residential, vocational and life~~
 352 ~~skills~~] residential vocational or life skills program;
- 353 (b) refer each concern that the division identifies during the on-site inspection to the
 354 state or municipal entity responsible for the area of concern; and
- 355 (c) coordinate with each relevant state and municipal entity to monitor the [~~residential,~~
 356 ~~vocational and life skills~~] residential vocational or life skills program's compliance
 357 with the entity's relevant health and safety regulations.

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

- 360 (a) issue a cease and desist order;
- 361 (b) impose an administrative fine of up to \$2,500 for each violation of this chapter; and
- 362 (c) seek injunctive relief in a court of competent jurisdiction.

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

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

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

367 (1) On or before August 31 of each year, a [~~residential, vocational and life skills~~] residential
 368 vocational or life skills program shall collect and report data on recidivism of

369 participants to the State Commission on Criminal and Juvenile Justice.

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

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

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

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

376 As used in this part:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

400 (5)(a) "Boarding school" means a private school that:

401 (i) uses a regionally accredited education program;

402 (ii) provides a residence to the school's students:

- 403 (A) for the purpose of enabling the school's students to attend classes at the
404 school; and
- 405 (B) as an ancillary service to educating the students at the school;
- 406 (iii) has the primary purpose of providing the school's students with an education, as
407 defined in Subsection (5)(b)(i); and
- 408 (iv)(A) does not provide the treatment or services described in Subsection (40)(a);
409 or
- 410 (B) provides the treatment or services described in Subsection (40)(a) on a limited
411 basis, as described in Subsection (5)(b)(ii).
- 412 (b)(i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
413 one or more grades from kindergarten through grade 12.
- 414 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment
415 or services described in Subsection (40)(a) on a limited basis if:
- 416 (A) the treatment or services described in Subsection (40)(a) are provided only as
417 an incidental service to a student; and
- 418 (B) the school does not:
- 419 (I) specifically solicit a student for the purpose of providing the treatment or
420 services described in Subsection (40)(a); or
- 421 (II) have a primary purpose of providing the treatment or services described in
422 Subsection (40)(a).
- 423 (c) "Boarding school" does not include a therapeutic school.
- 424 (6) "Certification" means a less restrictive level of licensure issued by the department.
- 425 (7) "Child" means an individual under 18 years old.
- 426 (8) "Child placing" means receiving, accepting, or providing custody or care for any child,
427 temporarily or permanently, for the purpose of:
- 428 (a) finding a person to adopt the child;
- 429 (b) placing the child in a home for adoption; or
- 430 (c) foster home placement.
- 431 (9) "Child-placing agency" means a person that engages in child placing.
- 432 (10) "Client" means an individual who receives or has received services from a licensee.
- 433 (11)(a) "Congregate care program" means any of the following that provide services to a
434 child:
- 435 (i) an outdoor youth program;
- 436 (ii) a residential support program;

- 437 (iii) a residential treatment program; or
438 (iv) a therapeutic school.
- 439 (b) "Congregate care program" does not include a human services program that:
440 (i) is licensed to serve adults; and
441 (ii) is approved by the office to service a child for a limited time.
- 442 (12) "Day treatment" means specialized treatment that is provided to:
443 (a) a client less than 24 hours a day; and
444 (b) four or more persons who:
445 (i) are unrelated to the owner or provider; and
446 (ii) have emotional, psychological, developmental, physical, or behavioral
447 dysfunctions, impairments, or chemical dependencies.
- 448 (13) "Department contractor" means an individual who:
449 (a) provides services under a contract with the department; and
450 (b) due to the contract with the department, has or will likely have direct access to a
451 child or vulnerable adult.
- 452 (14) "Direct access" means that an individual has, or likely will have:
453 (a) contact with or access to a child or vulnerable adult that provides the individual with
454 an opportunity for personal communication or touch; or
455 (b) an opportunity to view medical, financial, or other confidential personal identifying
456 information of the child, the child's parents or legal guardians, or the vulnerable adult.
- 457 (15) "Directly supervised" means that an individual is being supervised under the
458 uninterrupted visual and auditory surveillance of another individual who has a current
459 background check approval issued by the office.
- 460 (16) "Director" means the director of the office.
- 461 (17) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 462 (18) "Domestic violence treatment program" means a nonresidential program designed to
463 provide psychological treatment and educational services to perpetrators and victims of
464 domestic violence.
- 465 (19) "Elder adult" means a person 65 years old or older.
- 466 (20) "Emergency safety intervention" means a tactic used to protect staff or a client from
467 being physically injured, utilized by an appropriately trained direct care staff and only
468 performed in accordance with a nationally or regionally recognized curriculum in the
469 least restrictive manner to restore staff or client safety.
- 470 (21) "Foster home" means a residence that is licensed or certified by the office for the

- 471 full-time substitute care of a child.
- 472 (22) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.
- 473 (23) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- 474 (24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.
- 475 (25)(a) "Human services program" means:
- 476 (i) a foster home;
- 477 (ii) a therapeutic school;
- 478 (iii) a youth program;
- 479 (iv) an outdoor youth program;
- 480 (v) a residential treatment program;
- 481 (vi) a residential support program;
- 482 (vii) a resource family home;
- 483 (viii) a recovery residence; or
- 484 (ix) a facility or program that provides:
- 485 (A) adult day care;
- 486 (B) day treatment;
- 487 (C) outpatient treatment;
- 488 (D) domestic violence treatment;
- 489 (E) child-placing services;
- 490 (F) social detoxification; or
- 491 (G) any other human services that are required by contract with the department to
- 492 be licensed with the department.
- 493 (b) "Human services program" does not include:
- 494 (i) a boarding school;
- 495 (ii) a [~~residential, vocational and life~~] residential vocational or life skills program, as
- 496 defined in Section 13-53-102; or
- 497 (iii) a short-term relief care provider.
- 498 (26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 499 (27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
- 500 (28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 501 (29) "Intermediate secure treatment" means 24-hour specialized residential treatment or
- 502 care for an individual who:
- 503 (a) cannot live independently or in a less restrictive environment; and
- 504 (b) requires, without the individual's consent or control, the use of locked doors to care

- 505 for the individual.
- 506 (30) "Licensee" means an individual or a human services program licensed by the office.
- 507 (31) "Local government" means a city, town, or county.
- 508 (32) "Minor" means child.
- 509 (33) "Office" means the Office of Licensing within the department.
- 510 (34) "Outdoor youth program" means a program that provides:
- 511 (a) services to a child that has:
- 512 (i) a chemical dependency; or
- 513 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
- 514 physical, or behavioral;
- 515 (b) a 24-hour outdoor group living environment; and
- 516 (c)(i) regular therapy, including group, individual, or supportive family therapy; or
- 517 (ii) informal therapy or similar services, including wilderness therapy, adventure
- 518 therapy, or outdoor behavioral healthcare.
- 519 (35) "Outpatient treatment" means individual, family, or group therapy or counseling
- 520 designed to improve and enhance social or psychological functioning for those whose
- 521 physical and emotional status allows them to continue functioning in their usual living
- 522 environment.
- 523 (36) "Practice group" or "group practice" means two or more health care providers legally
- 524 organized as a partnership, professional corporation, or similar association, for which:
- 525 (a) substantially all of the services of the health care providers who are members of the
- 526 group are provided through the group and are billed in the name of the group and
- 527 amounts received are treated as receipts of the group; and
- 528 (b) the overhead expenses of and the income from the practice are distributed in
- 529 accordance with methods previously determined by members of the group.
- 530 (37) "Private-placement child" means a child whose parent or guardian enters into a
- 531 contract with a congregate care program for the child to receive services.
- 532 (38)(a) "Recovery residence" means a home, residence, or facility that meets at least two
- 533 of the following requirements:
- 534 (i) provides a supervised living environment for individuals recovering from a
- 535 substance use disorder;
- 536 (ii) provides a living environment in which more than half of the individuals in the
- 537 residence are recovering from a substance use disorder;
- 538 (iii) provides or arranges for residents to receive services related to the resident's

- 539 recovery from a substance use disorder, either on or off site;
- 540 (iv) is held out as a living environment in which individuals recovering from
- 541 substance abuse disorders live together to encourage continued sobriety; or
- 542 (v)(A) receives public funding; or
- 543 (B) is run as a business venture, either for-profit or not-for-profit.
- 544 (b) "Recovery residence" does not mean:
- 545 (i) a residential treatment program;
- 546 (ii) residential support program;
- 547 (iii) a residential vocational or life skills program; or
- 548 [~~(iii)~~] (iv) a home, residence, or facility, in which:
- 549 (A) residents, by a majority vote of the residents, establish, implement, and
- 550 enforce policies governing the living environment, including the manner in
- 551 which applications for residence are approved and the manner in which
- 552 residents are expelled;
- 553 (B) residents equitably share rent and housing-related expenses; and
- 554 (C) a landlord, owner, or operator does not receive compensation, other than fair
- 555 market rental income, for establishing, implementing, or enforcing policies
- 556 governing the living environment.
- 557 (39) "Regular business hours" means:
- 558 (a) the hours during which services of any kind are provided to a client; or
- 559 (b) the hours during which a client is present at the facility of a licensee.
- 560 (40)(a) "Residential support program" means a program that arranges for or provides the
- 561 necessities of life as a protective service to individuals or families who have a
- 562 disability or who are experiencing a dislocation or emergency that prevents them
- 563 from providing these services for themselves or their families.
- 564 (b) "Residential support program" includes a program that provides a supervised living
- 565 environment for individuals with dysfunctions or impairments that are:
- 566 (i) emotional;
- 567 (ii) psychological;
- 568 (iii) developmental; or
- 569 (iv) behavioral.
- 570 (c) Treatment is not a necessary component of a residential support program.
- 571 (d) "Residential support program" does not include:
- 572 (i) a recovery residence; or

- 573 (ii) a program that provides residential services that are performed:
574 (A) exclusively under contract with the department and provided to individuals
575 through the Division of Services for People with Disabilities; or
576 (B) in a facility that serves fewer than four individuals.
- 577 (41)(a) "Residential treatment" means a 24-hour group living environment for four or
578 more individuals unrelated to the owner or provider that offers room or board and
579 specialized treatment, behavior modification, rehabilitation, discipline, emotional
580 growth, or habilitation services for persons with emotional, psychological,
581 developmental, or behavioral dysfunctions, impairments, or chemical dependencies.
- 582 (b) "Residential treatment" does not include a:
583 (i) boarding school;
584 (ii) foster home; or
585 (iii) recovery residence.
- 586 (42) "Residential treatment program" means a program or facility that provides:
587 (a) residential treatment; or
588 (b) intermediate secure treatment.
- 589 (43) "Seclusion" means the involuntary confinement of an individual in a room or an area:
590 (a) away from the individual's peers; and
591 (b) in a manner that physically prevents the individual from leaving the room or area.
- 592 (44) "Short-term relief care provider" means an individual who:
593 (a) provides short-term and temporary relief care to a foster parent:
594 (i) for less than six consecutive nights; and
595 (ii) in the short-term relief care provider's home;
596 (b) is an immediate family member or relative, as those terms are defined in Section
597 80-3-102, of the foster parent;
598 (c) is direct access qualified, as that term is defined in Section 26B-2-120;
599 (d) has been approved to provide short-term relief care by the department;
600 (e) is not reimbursed by the department for the temporary relief care provided; and
601 (f) is not an immediate family member or relative, as those terms are defined in Section
602 80-3-102, of the foster child.
- 603 (45) "Social detoxification" means short-term residential services for persons who are
604 experiencing or have recently experienced drug or alcohol intoxication, that are provided
605 outside of a health care facility licensed under Part 2, Health Care Facility Licensing and
606 Inspection, and that include:

- 607 (a) room and board for persons who are unrelated to the owner or manager of the facility;
608 (b) specialized rehabilitation to acquire sobriety; and
609 (c) aftercare services.
- 610 (46) "Substance abuse disorder" or "substance use disorder" mean the same as "substance
611 use disorder" is defined in Section 26B-5-501.
- 612 (47) "Substance abuse treatment program" or "substance use disorder treatment program"
613 means a program:
- 614 (a) designed to provide:
- 615 (i) specialized drug or alcohol treatment;
616 (ii) rehabilitation; or
617 (iii) habilitation services; and
- 618 (b) that provides the treatment or services described in Subsection (47)(a) to persons
619 with:
- 620 (i) a diagnosed substance use disorder; or
621 (ii) chemical dependency disorder.
- 622 (48) "Therapeutic school" means a residential group living facility:
- 623 (a) for four or more individuals that are not related to:
- 624 (i) the owner of the facility; or
625 (ii) the primary service provider of the facility;
- 626 (b) that serves students who have a history of failing to function:
- 627 (i) at home;
628 (ii) in a public school; or
629 (iii) in a nonresidential private school; and
- 630 (c) that offers:
- 631 (i) room and board; and
632 (ii) an academic education integrated with:
- 633 (A) specialized structure and supervision; or
634 (B) services or treatment related to:
- 635 (I) a disability;
636 (II) emotional development;
637 (III) behavioral development;
638 (IV) familial development; or
639 (V) social development.
- 640 (49) "Unrelated persons" means persons other than parents, legal guardians, grandparents,

641 brothers, sisters, uncles, or aunts.

642 (50) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent
643 mental or physical impairment that substantially affects the person's ability to:

644 (a) provide personal protection;

645 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

646 (c) obtain services necessary for health, safety, or welfare;

647 (d) carry out the activities of daily living;

648 (e) manage the adult's own resources; or

649 (f) comprehend the nature and consequences of remaining in a situation of abuse,
650 neglect, or exploitation.

651 (51)(a) "Youth program" means a program designed to provide behavioral, substance
652 use, or mental health services to minors that:

653 (i) serves adjudicated or nonadjudicated youth;

654 (ii) charges a fee for the program's services;

655 (iii) may provide host homes or other arrangements for overnight accommodation of
656 the youth;

657 (iv) may provide all or part of the program's services in the outdoors;

658 (v) may limit or censor access to parents or guardians; and

659 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
660 minor's own free will.

661 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
662 Scouts, 4-H, and other such organizations.

663 (52)(a) "Youth transportation company" means any person that transports a child for
664 payment to or from a congregate care program in Utah.

665 (b) "Youth transportation company" does not include:

666 (i) a relative of the child;

667 (ii) a state agency; or

668 (iii) a congregate care program's employee who transports the child from the
669 congregate care program that employs the employee and returns the child to the
670 same congregate care program.

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

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

674 (1)(a) The Division of Integrated Healthcare shall exercise responsibility over the

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

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

- 743 (vi) monitor and evaluate programs provided by local substance abuse authorities and
744 local mental health authorities;
- 745 (vii) examine expenditures of local, state, and federal funds;
- 746 (viii) monitor the expenditure of public funds by:
- 747 (A) local substance abuse authorities;
- 748 (B) local mental health authorities; and
- 749 (C) in counties where they exist, a private contract provider that has an annual or
750 otherwise ongoing contract to provide comprehensive substance abuse or
751 mental health programs or services for the local substance abuse authority or
752 local mental health authority;
- 753 (ix) contract with local substance abuse authorities and local mental health authorities
754 to provide a comprehensive continuum of services that include community-based
755 services for individuals involved in the criminal justice system, in accordance with
756 division policy, contract provisions, and the local plan;
- 757 (x) contract with private and public entities for special statewide or nonclinical
758 services, or services for individuals involved in the criminal justice system,
759 according to division rules;
- 760 (xi) review and approve each local substance abuse authority's plan and each local
761 mental health authority's plan in order to ensure:
- 762 (A) a statewide comprehensive continuum of substance use services;
- 763 (B) a statewide comprehensive continuum of mental health services;
- 764 (C) services result in improved overall health and functioning;
- 765 (D) a statewide comprehensive continuum of community-based services designed
766 to reduce criminal risk factors for individuals who are determined to have
767 substance use or mental illness conditions or both, and who are involved in the
768 criminal justice system;
- 769 (E) compliance, where appropriate, with the certification requirements in
770 Subsection (2)(h); and
- 771 (F) appropriate expenditure of public funds;
- 772 (xii) review and make recommendations regarding each local substance abuse
773 authority's contract with the local substance abuse authority's provider of
774 substance use programs and services and each local mental health authority's
775 contract with the local mental health authority's provider of mental health
776 programs and services to ensure compliance with state and federal law and policy;

- 777 (xiii) monitor and ensure compliance with division rules and contract requirements;
778 and
- 779 (xiv) withhold funds from local substance abuse authorities, local mental health
780 authorities, and public and private providers for contract noncompliance, failure to
781 comply with division directives regarding the use of public funds, or for misuse of
782 public funds or money;
- 783 (d) ensure that the requirements of this part are met and applied uniformly by local
784 substance abuse authorities and local mental health authorities across the state;
- 785 (e) require each local substance abuse authority and each local mental health authority,
786 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a
787 plan to the division on or before May 15 of each year;
- 788 (f) conduct an annual program audit and review of each local substance abuse authority
789 and each local substance abuse authority's contract provider, and each local mental
790 health authority and each local mental health authority's contract provider, including:
- 791 (i) a review and determination regarding whether:
- 792 (A) public funds allocated to the local substance abuse authority or the local
793 mental health authorities are consistent with services rendered by the authority
794 or the authority's contract provider, and with outcomes reported by the
795 authority's contract provider; and
- 796 (B) each local substance abuse authority and each local mental health authority is
797 exercising sufficient oversight and control over public funds allocated for
798 substance use disorder and mental health programs and services; and
- 799 (ii) items determined by the division to be necessary and appropriate;
- 800 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic
801 Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 802 (h)(i) train and certify an adult as a peer support specialist, qualified to provide peer
803 supports services to an individual with:
- 804 (A) a substance use disorder;
- 805 (B) a mental health disorder; or
- 806 (C) a substance use disorder and a mental health disorder;
- 807 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
808 adult as a peer support specialist;
- 809 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
810 Rulemaking Act, that:

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

- 845 Corrections, the Department of Workforce Services, and the Board of Pardons and
846 Parole to collect data on recidivism in accordance with the metrics and requirements
847 described in Section 63M-7-102;
- 848 (m) at the division's discretion, use the data described in Subsection (2)(l) to make
849 decisions regarding the use of funds allocated to the division to provide treatment;
- 850 (n) annually, on or before August 31, submit the data collected under Subsection (2)(l)
851 and any recommendations to improve the data collection to the State Commission on
852 Criminal and Juvenile Justice to be included in the report described in Subsection
853 63M-7-204(1)(x);
- 854 (o) publish the following on the division's website:
- 855 (i) the performance goals and outcome measurements described in Subsection (2)(j);
856 and
- 857 (ii) a description of the services provided and the contact information for the mental
858 health and substance use treatment programs described in Subsection (2)(j) and [
859 ~~residential, vocational and life skills~~] residential vocational or life skills programs,
860 as defined in Section 13-53-102; and
- 861 (p) consult and coordinate with the Division of Child and Family Services to develop
862 and manage the operation of a program designed to reduce substance use during
863 pregnancy and by parents of a newborn child that includes:
- 864 (i) providing education and resources to health care providers and individuals in the
865 state regarding prevention of substance use during pregnancy;
- 866 (ii) providing training to health care providers in the state regarding screening of a
867 pregnant woman or pregnant minor to identify a substance use disorder; and
- 868 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
869 child in need of substance use treatment services to a facility that has the capacity
870 to provide the treatment services.
- 871 (3) In addition to the responsibilities described in Subsection (2), the division shall, within
872 funds appropriated by the Legislature for this purpose, implement and manage the
873 operation of a firearm safety and suicide prevention program, in consultation with the
874 Bureau of Criminal Identification created in Section 53-10-201, including:
- 875 (a) coordinating with local mental health and substance abuse authorities, a nonprofit
876 behavioral health advocacy group, and a representative from a Utah-based nonprofit
877 organization with expertise in the field of firearm use and safety that represents
878 firearm owners, to:

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

- 913 safety brochures and packets;
- 914 (ii) procuring the cable-style gun locks for distribution; and
- 915 (iii) administering the rebate program.
- 916 (4)(a) The division may refuse to contract with and may pursue legal remedies against
- 917 any local substance abuse authority or local mental health authority that fails, or has
- 918 failed, to expend public funds in accordance with state law, division policy, contract
- 919 provisions, or directives issued in accordance with state law.
- 920 (b) The division may withhold funds from a local substance abuse authority or local
- 921 mental health authority if the authority's contract provider of substance use or mental
- 922 health programs or services fails to comply with state and federal law or policy.
- 923 (5)(a) Before reissuing or renewing a contract with any local substance abuse authority
- 924 or local mental health authority, the division shall review and determine whether the
- 925 local substance abuse authority or local mental health authority is complying with the
- 926 oversight and management responsibilities described in Sections 17-43-201,
- 927 17-43-203, 17-43-303, and 17-43-309.
- 928 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
- 929 liability described in Section 17-43-303 and to the responsibility and liability
- 930 described in Section 17-43-203.
- 931 (6) In carrying out the division's duties and responsibilities, the division may not duplicate
- 932 treatment or educational facilities that exist in other divisions or departments of the state,
- 933 but shall work in conjunction with those divisions and departments in rendering the
- 934 treatment or educational services that those divisions and departments are competent and
- 935 able to provide.
- 936 (7) The division may accept in the name of and on behalf of the state donations, gifts,
- 937 devises, or bequests of real or personal property or services to be used as specified by
- 938 the donor.
- 939 (8) The division shall annually review with each local substance abuse authority and each
- 940 local mental health authority the authority's statutory and contract responsibilities
- 941 regarding:
- 942 (a) use of public funds;
- 943 (b) oversight of public funds; and
- 944 (c) governance of substance use disorder and mental health programs and services.
- 945 (9) The Legislature may refuse to appropriate funds to the division upon the division's
- 946 failure to comply with the provisions of this part.

947 (10) If a local substance abuse authority contacts the division under Subsection 17-43-201
948 (10) for assistance in providing treatment services to a pregnant woman or pregnant
949 minor, the division shall:

- 950 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
951 capacity to provide the treatment services; or
952 (b) otherwise ensure that treatment services are made available to the pregnant woman
953 or pregnant minor.

954 (11) The division shall employ a school-based mental health specialist to be housed at the
955 State Board of Education who shall work with the State Board of Education to:

- 956 (a) provide coordination between a local education agency and local mental health
957 authority;
958 (b) recommend evidence-based and evidence informed mental health screenings and
959 intervention assessments for a local education agency; and
960 (c) coordinate with the local community, including local departments of health, to
961 enhance and expand mental health related resources for a local education agency.

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

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

964 (1) The commission shall:

- 965 (a) promote the commission's purposes as enumerated in Section 63M-7-201;
966 (b) promote the communication and coordination of all criminal and juvenile justice
967 agencies;
968 (c) study, evaluate, and report on the status of crime in the state and on the effectiveness
969 of criminal justice policies, procedures, and programs that are directed toward the
970 reduction of crime in the state;
971 (d) study, evaluate, and report on programs initiated by state and local agencies to
972 address reducing recidivism, including changes in penalties and sentencing
973 guidelines intended to reduce recidivism, costs savings associated with the reduction
974 in the number of inmates, and evaluation of expenses and resources needed to meet
975 goals regarding the use of treatment as an alternative to incarceration, as resources
976 allow;
977 (e) study, evaluate, and report on policies, procedures, and programs of other
978 jurisdictions which have effectively reduced crime;
979 (f) identify and promote the implementation of specific policies and programs the
980 commission determines will significantly reduce crime in Utah;

- 981 (g) provide analysis and recommendations on all criminal and juvenile justice
982 legislation, state budget, and facility requests, including program and fiscal impact on
983 all components of the criminal and juvenile justice system;
- 984 (h) provide analysis, accountability, recommendations, and supervision for state and
985 federal criminal justice grant money;
- 986 (i) provide public information on the criminal and juvenile justice system and give
987 technical assistance to agencies or local units of government on methods to promote
988 public awareness;
- 989 (j) promote research and program evaluation as an integral part of the criminal and
990 juvenile justice system;
- 991 (k) provide a comprehensive criminal justice plan annually;
- 992 (l) review agency forecasts regarding future demands on the criminal and juvenile
993 justice systems, including specific projections for secure bed space;
- 994 (m) promote the development of criminal and juvenile justice information systems that
995 are consistent with common standards for data storage and are capable of
996 appropriately sharing information with other criminal justice information systems by:
- 997 (i) developing and maintaining common data standards for use by all state criminal
998 justice agencies;
- 999 (ii) annually performing audits of criminal history record information maintained by
1000 state criminal justice agencies to assess their accuracy, completeness, and
1001 adherence to standards;
- 1002 (iii) defining and developing state and local programs and projects associated with
1003 the improvement of information management for law enforcement and the
1004 administration of justice; and
- 1005 (iv) establishing general policies concerning criminal and juvenile justice information
1006 systems and making rules as necessary to carry out the duties under Subsection
1007 (1)(k) and this Subsection (1)(m);
- 1008 (n) allocate and administer grants, from money made available, for approved education
1009 programs to help prevent the sexual exploitation of children;
- 1010 (o) allocate and administer grants for law enforcement operations and programs related
1011 to reducing illegal drug activity and related criminal activity;
- 1012 (p) request, receive, and evaluate data and recommendations collected and reported by
1013 agencies and contractors related to policies recommended by the commission
1014 regarding recidivism reduction, including the data described in Section 13-53-111

- 1015 and Subsection 26B-5-102(2)(l);
- 1016 (q) establish and administer a performance incentive grant program that allocates funds
- 1017 appropriated by the Legislature to programs and practices implemented by counties
- 1018 that reduce recidivism and reduce the number of offenders per capita who are
- 1019 incarcerated;
- 1020 (r) oversee or designate an entity to oversee the implementation of juvenile justice
- 1021 reforms;
- 1022 (s) make rules and administer the juvenile holding room standards and juvenile jail
- 1023 standards to align with the Juvenile Justice and Delinquency Prevention Act
- 1024 requirements pursuant to 42 U.S.C. Sec. 5633;
- 1025 (t) allocate and administer grants, from money made available, for pilot qualifying
- 1026 education programs;
- 1027 (u) request, receive, and evaluate the aggregate data collected from prosecutorial
- 1028 agencies and the Administrative Office of the Courts, in accordance with Sections
- 1029 63M-7-216 and 78A-2-109.5;
- 1030 (v) report annually to the Law Enforcement and Criminal Justice Interim Committee on
- 1031 the progress made on each of the following goals of the Justice Reinvestment
- 1032 Initiative:
- 1033 (i) ensuring oversight and accountability;
- 1034 (ii) supporting local corrections systems;
- 1035 (iii) improving and expanding reentry and treatment services; and
- 1036 (iv) strengthening probation and parole supervision;
- 1037 (w) compile a report of findings based on the data and recommendations provided under
- 1038 Section 13-53-111 and Subsection 26B-5-102(2)(n) that:
- 1039 (i) separates the data provided under Section 13-53-111 by each [~~residential,~~
- 1040 ~~vocational and life skills~~] residential vocational or life skills program; and
- 1041 (ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental
- 1042 health or substance use treatment program;
- 1043 (x) publish the report described in Subsection (1)(w) on the commission's website and
- 1044 annually provide the report to the Judiciary Interim Committee, the Health and
- 1045 Human Services Interim Committee, the Law Enforcement and Criminal Justice
- 1046 Interim Committee, and the related appropriations subcommittees;
- 1047 (y) receive, compile, and publish on the commission's website the data provided under:
- 1048 (i) Section 53-25-202;

- 1049 (ii) Section 53-25-301; and
1050 (iii) Section 53-25-401;
- 1051 (z) review, research, advise, and make recommendations to the three branches of
1052 government regarding evidence-based sex offense management policies and
1053 practices, including supervision standards, treatment standards, and the sex offender
1054 registry;
- 1055 (aa) receive and evaluate a referral from the Department of Public Safety received under
1056 Section 53-21-104.3 involving a denial of mental health resources to an eligible
1057 individual, including, if appropriate in the commission's discretion, deny the relevant
1058 entity from receiving any grant of state funds under Section 63M-7-218 for a
1059 specified period of time; and
- 1060 (bb) accept public comment.
- 1061 (2)(a) The commission may designate an entity to perform the duties described in this
1062 part.
- 1063 (b) If the commission designates an entity under Subsection (2)(a), the commission shall
1064 ensure that the membership of the designated entity includes representation from
1065 relevant stakeholder groups from the parts of the justice system implicated in the
1066 policy area.
- 1067 (3) in fulfilling the commission's duties under Subsection (1), the commission may seek
1068 input and request assistance from groups with knowledge and expertise in criminal
1069 justice, including other boards and commissions affiliated or housed within the
1070 commission.
- 1071 Section 16. Section **64-13-21** is amended to read:
- 1072 **64-13-21 . Supervision of sentenced offenders placed in community --**
1073 **Rulemaking -- POST certified parole or probation officers and peace officers -- Duties --**
1074 **Supervision fee.**
- 1075 (1)(a) The department, except as otherwise provided by law, shall supervise a sentenced
1076 offender placed in the community if the offender:
- 1077 (i)(A) is placed on probation by a court;
1078 (B) is released on parole by the Board of Pardons and Parole; or
1079 (C) is accepted for supervision under the terms of the Interstate Compact for the
1080 Supervision of Parolees and Probationers; and
- 1081 (ii) has been convicted of:
1082 (A) a felony;

- 1083 (B) a class A misdemeanor when an element of the offense is the use or attempted
1084 use of physical force against an individual or property; or
- 1085 (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the
1086 department is ordered by a court to supervise the offender under Section
1087 77-18-105.
- 1088 (b) If a sentenced offender participates in substance use treatment or a [~~residential,~~
1089 ~~vocational and life skills~~] residential vocational or life skills program, as defined in
1090 Section 13-53-102, while under supervision on probation or parole, the department
1091 shall monitor the offender's compliance with and completion of the treatment or
1092 program.
- 1093 (c) The department shall establish standards for:
- 1094 (i) the supervision of offenders in accordance with the adult sentencing and
1095 supervision length guidelines, as defined in Section 63M-7-401.1, giving priority,
1096 based on available resources, to felony offenders and offenders sentenced under
1097 Subsection 58-37-8 (2)(b)(ii); and
- 1098 (ii) the monitoring described in Subsection (1)(b).
- 1099 (2) The department shall apply the graduated and evidence-based responses established in
1100 the adult sentencing and supervision length guidelines, as defined in Section
1101 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation
1102 of the terms of probation or parole, including:
- 1103 (a) sanctions to be used in response to a violation of the terms of probation or parole; and
1104 (b) requesting approval from the court or Board of Pardons and Parole to impose a
1105 sanction for an individual's violation of the terms of probation or parole, for a period
1106 of incarceration of not more than three consecutive days and not more than a total of
1107 six days within a period of 30 days.
- 1108 (3) The department shall implement a program of graduated incentives as established in the
1109 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1
1110 to facilitate the department's prompt and appropriate response to an offender's:
- 1111 (a) compliance with the terms of probation or parole; or
1112 (b) positive conduct that exceeds those terms.
- 1113 (4)(a) The department shall, in collaboration with the State Commission on Criminal and
1114 Juvenile Justice and the Division of Substance Abuse and Mental Health, create
1115 standards and procedures for the collection of information, including cost savings
1116 related to recidivism reduction and the reduction in the number of inmates, related to

- 1117 the use of the graduated and evidence-based responses and graduated incentives, and
1118 offenders' outcomes.
- 1119 (b) The collected information shall be provided to the State Commission on Criminal
1120 and Juvenile Justice not less frequently than annually on or before August 31.
- 1121 (5) Employees of the department who are POST certified as law enforcement officers or
1122 correctional officers and who are designated as parole and probation officers by the
1123 executive director have the following duties:
- 1124 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
1125 with the conditions of the parole or probation agreement;
- 1126 (b) investigating or apprehending any offender who has escaped from the custody of the
1127 department or absconded from supervision;
- 1128 (c) supervising any offender during transportation; or
- 1129 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 1130 (6)(a)(i) A monthly supervision fee of \$30 shall be collected from each offender on
1131 probation or parole.
- 1132 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
1133 department upon a showing by the offender that imposition would create a
1134 substantial hardship or if the offender owes restitution to a victim.
- 1135 (b)(i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
1136 Administrative Rulemaking Act, specifying the criteria for suspension or waiver
1137 of the supervision fee and the circumstances under which an offender may request
1138 a hearing.
- 1139 (ii) In determining whether the imposition of the supervision fee would constitute a
1140 substantial hardship, the department shall consider the financial resources of the
1141 offender and the burden that the fee would impose, with regard to the offender's
1142 other obligations.
- 1143 (7)(a) For offenders placed on probation under Section 77-18-105 or parole under
1144 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019,
1145 the department shall establish a program allowing an offender to earn a reduction
1146 credit of 30 days from the offender's period of probation or parole for each month the
1147 offender complies with the terms of the offender's probation or parole agreement,
1148 including the case action plan.
- 1149 (b)(i) For offenders placed on probation under Section 77-18-105 or parole under
1150 Section 76-3-202 on or after July 1, 2026, the department shall establish a

- 1151 program, consistent with the adult sentencing and supervision length guidelines,
1152 as defined in Section 63M-7-401.1, to provide incentives for an offender that
1153 maintains eligible employment, as defined in Section 64-13g-101.
- 1154 (ii) The program under Subsection (7)(b)(i) may include a credit towards the
1155 reduction of the length of supervision for an offender at a rate of up to 30 days for
1156 each month that the offender maintains eligible employment, as defined in Section
1157 64-13g-101.
- 1158 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for
1159 termination of supervision under the program described in this Subsection (7)(b) if
1160 the court, or the Board of Pardons and Parole, finds that:
- 1161 (A) the offender presents a substantial risk to public safety;
1162 (B) termination would prevent the offender from completing risk reduction
1163 programming or treatment; or
1164 (C) the eligibility criteria for termination of supervision, as established in the adult
1165 sentencing and supervision length guidelines, as defined in Section
1166 63M-7-401.1, have not been met.
- 1167 (iv) This Subsection (7)(b) does not prohibit the department, or another supervision
1168 services provider, from requesting termination of supervision based on the
1169 eligibility criteria in the adult sentencing and supervision length guidelines, as
1170 defined in Section 63M-7-401.1.
- 1171 (c) The department shall:
- 1172 (i) maintain a record of credits earned by an offender under this Subsection (7); and
1173 (ii) request from the court or the Board of Pardons and Parole the termination of
1174 probation or parole not fewer than 30 days prior to the termination date that
1175 reflects the credits earned under this Subsection (7).
- 1176 (d) This Subsection (7) does not prohibit the department from requesting a termination
1177 date earlier than the termination date established by earned credits under Subsection
1178 (7)(c).
- 1179 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation
1180 or parole upon completion of the period of probation or parole accrued by time
1181 served and credits earned under this Subsection (7) unless the court or the Board of
1182 Pardons and Parole finds that termination would interrupt the completion of a
1183 necessary treatment program, in which case the termination of probation or parole
1184 shall occur when the treatment program is completed.

- 1185 (f) The department shall report annually to the State Commission on Criminal and
 1186 Juvenile Justice on or before August 31:
- 1187 (i) the number of offenders who have earned probation or parole credits under this
 1188 Subsection (7) in one or more months of the preceding fiscal year and the
 1189 percentage of the offenders on probation or parole during that time that this
 1190 number represents;
- 1191 (ii) the average number of credits earned by those offenders who earned credits;
- 1192 (iii) the number of offenders who earned credits by county of residence while on
 1193 probation or parole;
- 1194 (iv) the cost savings associated with sentencing reform programs and practices; and
- 1195 (v) a description of how the savings will be invested in treatment and
 1196 early-intervention programs and practices at the county and state levels.

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

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

- 1199 (1) As used in this section:
- 1200 (a) "Lower degree of offense" includes an offense for which:
- 1201 (i) a statutory enhancement is charged in the information or indictment that would
 1202 increase either the maximum or the minimum sentence; and
- 1203 (ii) the court removes the statutory enhancement in accordance with this section.
- 1204 (b) "Minor regulatory offense" means the same as that term is defined in Section
 1205 77-40a-101.
- 1206 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic
 1207 and recidivism risks.
- 1208 (ii) "Rehabilitation program" includes:
- 1209 (A) a domestic violence treatment program, as that term is defined in Section
 1210 26B-2-101;
- 1211 (B) a [~~residential, vocational, and life skills~~] residential vocational or life skills
 1212 program, as that term is defined in Section 13-53-102;
- 1213 (C) a substance abuse treatment program, as that term is defined in Section
 1214 26B-2-101;
- 1215 (D) a substance use disorder treatment program, as that term is defined in Section
 1216 26B-2-101;
- 1217 (E) a youth program, as that term is defined in Section 26B-2-101;
- 1218 (F) a program that meets the standards established by the Department of

- 1219 Corrections under Section 64-13-25;
- 1220 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
1221 Council; or
- 1222 (H) a program that is substantially similar to a program described in Subsections
1223 (1)(c)(ii)(A) through (G).
- 1224 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
1225 regulatory offense or a traffic offense.
- 1226 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 1227 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
1228 that term is defined in Section 76-3-203.5.
- 1229 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
1230 conspiracy to commit an offense, for:
- 1231 (A) the possession, use, or removal of explosive, chemical, or incendiary devices
1232 under Subsection 76-10-306(3), (5), or (6); or
- 1233 (B) the purchase or possession of a dangerous weapon or handgun by a restricted
1234 person under Section 76-10-503.
- 1235 (2) The court may enter a judgment of conviction for a lower degree of offense than
1236 established by statute and impose a sentence at the time of sentencing for the lower
1237 degree of offense if the court:
- 1238 (a) takes into account:
- 1239 (i) the nature and circumstances of the offense of which the defendant was found
1240 guilty; and
- 1241 (ii) the history and character of the defendant;
- 1242 (b) gives any victim present at the sentencing and the prosecuting attorney an
1243 opportunity to be heard; and
- 1244 (c) concludes that the degree of offense established by statute would be unduly harsh to
1245 record as a conviction on the record for the defendant.
- 1246 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
1247 judgment of conviction for a lower degree of offense than established by statute:
- 1248 (a) after the defendant is successfully discharged from probation or parole for the
1249 conviction; and
- 1250 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
1251 is in the interest of justice in accordance with Subsection (7).
- 1252 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a

- 1253 judgment of conviction for a lower degree of offense than established by statute if:
- 1254 (a) the defendant's probation or parole for the conviction did not result in a successful
- 1255 discharge but the defendant is successfully discharged from probation or parole for a
- 1256 subsequent conviction of an offense;
- 1257 (b)(i) at least five years have passed after the day on which the defendant is sentenced
- 1258 for the subsequent conviction; or
- 1259 (ii) at least three years have passed after the day on which the defendant is sentenced
- 1260 for the subsequent conviction and the prosecuting attorney consents to the
- 1261 reduction;
- 1262 (c) the defendant is not convicted of a serious offense during the time period described
- 1263 in Subsection (4)(b);
- 1264 (d) there are no criminal proceedings pending against the defendant;
- 1265 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 1266 offense;
- 1267 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 1268 attorney consents to the reduction; and
- 1269 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 1270 in the interest of justice in accordance with Subsection (7).
- 1271 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 1272 judgment of conviction for a lower degree of offense than established by statute if:
- 1273 (a) the defendant's probation or parole for the conviction did not result in a successful
- 1274 discharge but the defendant is successfully discharged from a rehabilitation program;
- 1275 (b) at least three years have passed after the day on which the defendant is successfully
- 1276 discharged from the rehabilitation program;
- 1277 (c) the defendant is not convicted of a serious offense during the time period described
- 1278 in Subsection (5)(b);
- 1279 (d) there are no criminal proceedings pending against the defendant;
- 1280 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 1281 offense;
- 1282 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 1283 attorney consents to the reduction; and
- 1284 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 1285 in the interest of justice in accordance with Subsection (7).
- 1286 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a

- 1287 judgment of conviction for a lower degree of offense than established by statute if:
- 1288 (a) at least five years have passed after the day on which the defendant's probation or
- 1289 parole for the conviction did not result in a successful discharge;
- 1290 (b) the defendant is not convicted of a serious offense during the time period described
- 1291 in Subsection (6)(a);
- 1292 (c) there are no criminal proceedings pending against the defendant;
- 1293 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
- 1294 offense;
- 1295 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 1296 attorney consents to the reduction; and
- 1297 (f) the court finds that entering a judgment of conviction for a lower degree of offense is
- 1298 in the interest of justice in accordance with Subsection (7).
- 1299 (7) In determining whether entering a judgment of a conviction for a lower degree of
- 1300 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 1301 (a) the court shall consider:
- 1302 (i) the nature, circumstances, and severity of the offense for which a reduction is
- 1303 sought;
- 1304 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 1305 offense for which the reduction is sought; and
- 1306 (iii) any input from a victim of the offense; and
- 1307 (b) the court may consider:
- 1308 (i) any special characteristics or circumstances of the defendant, including the
- 1309 defendant's criminogenic risks and needs;
- 1310 (ii) the defendant's criminal history;
- 1311 (iii) the defendant's employment and community service history;
- 1312 (iv) whether the defendant participated in a rehabilitative program and successfully
- 1313 completed the program;
- 1314 (v) any effect that a reduction would have on the defendant's ability to obtain or
- 1315 reapply for a professional license from the Department of Commerce;
- 1316 (vi) whether the level of the offense has been reduced by law after the defendant's
- 1317 conviction;
- 1318 (vii) any potential impact that the reduction would have on public safety; or
- 1319 (viii) any other circumstances that are reasonably related to the defendant or the
- 1320 offense for which the reduction is sought.

- 1321 (8)(a) A court may only enter a judgment of conviction for a lower degree of offense
1322 under Subsection (3), (4), (5), or (6) after:
- 1323 (i) notice is provided to the other party;
- 1324 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
1325 to any victims; and
- 1326 (iii) a hearing is held if a hearing is requested by either party.
- 1327 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
1328 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
1329 or (6).
- 1330 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
1331 motion, the moving party has the burden to provide evidence sufficient to
1332 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 1333 (d) If a defendant files a motion under this section, the prosecuting attorney shall
1334 respond to the motion within 35 days after the day on which the motion is filed with
1335 the court.
- 1336 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
1337 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
1338 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 1339 (10)(a) An offense may be reduced only one degree under this section, unless the
1340 prosecuting attorney specifically agrees in writing or on the court record that the
1341 offense may be reduced two degrees.
- 1342 (b) An offense may not be reduced under this section by more than two degrees.
- 1343 (11) This section does not preclude an individual from obtaining or being granted an
1344 expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~] Title
1345 77, Chapter 40a, Expungement of Criminal Records.
- 1346 (12) The court may not enter a judgment for a conviction for a lower degree of offense
1347 under this section if:
- 1348 (a) the reduction is specifically precluded by law; or
- 1349 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
1350 reduction is sought.
- 1351 (13) When the court enters a judgment for a lower degree of offense under this section, the
1352 actual title of the offense for which the reduction is made may not be altered.
- 1353 (14)(a) An individual may not obtain a reduction under this section of a conviction that
1354 requires the individual to register as a sex offender, kidnap offender, or child abuse

1355 offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap,
1356 and Child Abuse Offender Registry, have expired.

1357 (b) An individual required to register as a sex offender, kidnap offender, or child abuse
1358 offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be
1359 granted a reduction of the conviction for the offense or offenses that require the
1360 individual to register as a sex offender, kidnap offender, or child abuse offender.

1361 Section 18. **Effective Date.**

1362 This bill takes effect on May 7, 2025.