

HB0301S01 compared with HB0301

{Omitted text} shows text that was in HB0301 but was omitted in HB0301S01

inserted text shows text that was not in HB0301 but was inserted into HB0301S01

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1

Drug Recodification
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Matthew H. Gwynn
Senate Sponsor:

2

LONG TITLE

3

General Description:

5 This bill technically reorganizes, revises, and clarifies provisions relating to drugs.

6

Highlighted Provisions:

7 This bill:

8 ▶ technically reorganizes, revises, and clarifies provisions concerning drugs, including moving certain criminal offenses concerning drugs from Title 58, Occupations and Professions, into Title 76, Utah Criminal Code, and reorganizing remaining sections into organized structures;

12 ▶ updates cross references; {and}

13 ▶ **adds coordination clauses to:**

14 • **coordinate changes between this bill and S.B. 117, Occupational and Professional**

15 **Licensing Amendments, if both bills pass and become law; and**

16 • **ensure the statutory numbering and renumbering made in this bill will be reflected in any new language added to the Utah Code by legislation that passes in the 2026 General Session and becomes law; and**

17 ▶ makes technical and conforming changes.

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20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides coordination clauses.

24 **Utah Code Sections Affected:**

25 **AMENDS:**

26 **4-5-107 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 396

27 **4-41-402 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 146, 327

28 **4-41a-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

30 **4-41a-302 (Effective 05/06/26)**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

32 **4-41a-404 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327

34 **4-41a-801 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 114, 414

36 **4-41a-1107 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

38 **4-41a-1203 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 114

39 **4-41a-1204 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 414

40 **4-45-104 (Effective 05/06/26)**, as enacted by Laws of Utah 2019, Chapter 329

41 **10-8-47 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 173

42 **17-72-101 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 13

44 **19-6-902 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 327

45 **26B-2-120 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 63

46 **26B-2-229 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2023, Chapter 305

48 **26B-3-131 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2023, Chapter 306

50 **26B-4-201 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 392

51 **26B-4-211 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2023, Chapter 307

53 **26B-4-212 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2023, Chapter 307

55 **26B-4-216 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2023, Chapter 307

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26B-4-220 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 273 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

60 26B-4-501 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapters 173, 340 and 470

62 26B-4-513 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 507

63 29-2-102 (Effective 05/06/26), as last amended by Laws of Utah 2010, Chapter 276

64 32B-3-303 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

65 32B-5-301 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

66 32B-6-406.1 (Effective 05/06/26), as last amended by Laws of Utah 2017, Chapter 455

67 32B-7-202 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapters 162, 173

69 32B-9-204 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

70 32B-10-404 (Effective 05/06/26), as last amended by Laws of Utah 2011, Chapters 307, 334

72 34-41-101 (Effective 05/06/26), as last amended by Laws of Utah 2025, First Special Session, Chapter 9

74 34A-2-302 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 352

75 34A-2-410.5 (Effective 05/06/26), as last amended by Laws of Utah 2025, First Special Session, Chapter 9

77 35A-3-311 (Effective 05/06/26), as last amended by Laws of Utah 2015, Chapter 221

78 41-6a-501 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 197

79 41-6a-517 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 328

80 49-20-416 (Effective 05/06/26), as enacted by Laws of Utah 2017, Chapter 180

81 53-3-220 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 220

82 53-10-113 (Effective 05/06/26), as last amended by Laws of Utah 2010, Chapter 276

83 53-10-114 (Effective 05/06/26), as last amended by Laws of Utah 2022, Chapter 415

84 53-10-211 (Effective 05/06/26), as last amended by Laws of Utah 2016, Chapter 144

85 53-10-304 (Effective 05/06/26), as last amended by Laws of Utah 2010, Chapter 276

86 53G-8-205 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

87 53G-8-501 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2018, Chapter 3

89 53G-8-505 (Effective 05/06/26), as last amended by Laws of Utah 2020, Chapter 161

90 58-1-501.7 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 328

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91 **58-5a-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 392
92 **58-16a-601 (Effective 05/06/26)**, as last amended by Laws of Utah 2017, Chapter 292
93 **58-17b-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 486
94 **58-17b-103 (Effective 05/06/26)**, as last amended by Laws of Utah 2013, Chapters 262, 278
96 **58-17b-201 (Effective 05/06/26)**, as last amended by Laws of Utah 2010, Chapter 287
97 **58-17b-502 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 273, 317, 321,
and 328
99 **58-17b-504 (Effective 05/06/26)**, as last amended by Laws of Utah 2022, Chapter 415
100 **58-17b-609 (Effective 05/06/26)**, as last amended by Laws of Utah 2020, Chapter 310
101 **58-17b-610.6 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 210
102 **58-17b-610.7 (Effective 05/06/26)**, as enacted by Laws of Utah 2017, Chapter 66
103 **58-17b-627 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 513
104 **58-24b-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 219
105 **58-28-502 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 125
106 **58-31b-503 (Effective 05/06/26)**, as last amended by Laws of Utah 2022, Chapter 415
107 **58-37f-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 329
108 **58-37f-201 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 329, 415
110 **58-37f-301 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 214
111 **58-37f-303 (Effective 05/06/26)**, as last amended by Laws of Utah 2021, Chapter 340
112 **58-37f-304 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 507
113 **58-37f-401 (Effective 05/06/26)**, as last amended by Laws of Utah 2018, Chapter 318
114 **58-37f-502 (Effective 05/06/26)**, as last amended by Laws of Utah 2010, Chapter 391 and
renumbered and amended by Laws of Utah 2010, Chapter 287
116 **58-37f-702 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 329
117 **58-37f-703 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 415
118 **58-37f-704 (Effective 05/06/26)**, as last amended by Laws of Utah 2022, Chapter 116
119 **58-38a-102 (Effective 05/06/26)**, as enacted by Laws of Utah 2010, Chapter 231
120 **58-38a-203 (Effective 05/06/26)**, as last amended by Laws of Utah 2011, Chapters 12, 340
122 **58-38a-204 (Effective 05/06/26)**, as last amended by Laws of Utah 2011, Chapter 12
123 **58-67-503 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 443
124 **58-67a-1 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 443

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125 **58-68-503 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 443
126 **58-71-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 507
127 **58-73-601 (Effective 05/06/26)**, as last amended by Laws of Utah 2022, Chapter 269
128 **58-88-202 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 276
129 **63A-17-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 397
130 **63G-7-202 (Effective 05/06/26)**, as last amended by Laws of Utah 2014, Chapter 415
131 **63I-1-258 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 236
132 **64-13-45 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapters 245, 341
133 **64-14-204 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 214
135 **67-5-36 (Effective 05/06/26)**, as enacted by Laws of Utah 2020, Chapter 443
136 **76-3-203.11 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 310, 330
138 **76-5-102.1 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 471
139 **76-5-112.5 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 330
140 **76-5-113 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 330
141 **76-5-203 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 204, 208, and
142 284
143 **76-5-207 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 471
144 **76-8-311.3 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 208
146 **76-8-311.10 (Effective 05/06/26)**, as enacted by Laws of Utah 2024, Chapter 96
147 **76-9-1110 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173
149 **76-9-1301 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173
151 **76-9-1505 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173
153 **76-11-217 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 208
155 **76-11-301 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 173
156 **76-11-302 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 208
157 **76-17-401 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, Chapter 173
159 **77-7-8 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 133
160 **77-11a-101 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 80
161 **77-11b-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 208
163 **77-11c-101 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 291
164 **77-23-210 (Effective 05/06/26)**, as last amended by Laws of Utah 2018, Chapter 281

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165 **77-23a-8 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 174
166 **77-40a-101 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 239
168 **77-40a-205 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 208, 214,
and 239
170 **78A-2-231 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 273, 317 and
330 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 330
172 **78A-5-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 426
173 **78A-5-201 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 434
174 **78B-3-801 (Effective 05/06/26)**, as last amended by Laws of Utah 2010, Chapter 345
175 **78B-4-504 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2008, Chapter 3
177 **78B-6-1101 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special Session,
Chapter 15
179 **78B-6-1107 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 141, 173, 174,
178, and 208
181 **78B-9-104 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 173, 174
183 **80-1-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 426
184 **80-3-110 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 273, 280, 317, and
330 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 330
186 **80-3-204 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 426
187 **80-3-301 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 426
188 **80-4-109 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 392
189 **80-6-707 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 173
190 **80-6-708 (Effective 05/06/26)**, as enacted by Laws of Utah 2021, Chapter 261
191 **81-9-204 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 426

192 ENACTS:

193 **58-37-103 (Effective 05/06/26)**, Utah Code Annotated 1953
194 **58-37-104 (Effective 05/06/26)**, Utah Code Annotated 1953
195 **58-37-113 (Effective 05/06/26)**, Utah Code Annotated 1953
196 **58-37-115 (Effective 05/06/26)**, Utah Code Annotated 1953
197 **58-37-201 (Effective 05/06/26)**, Utah Code Annotated 1953
198 **58-37-208 (Effective 05/06/26)**, Utah Code Annotated 1953

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199 **58-37-209 (Effective 05/06/26)**, Utah Code Annotated 1953
200 **58-37-210 (Effective 05/06/26)**, Utah Code Annotated 1953
201 **58-37-301 (Effective 05/06/26)**, Utah Code Annotated 1953
202 **58-37-304 (Effective 05/06/26)**, Utah Code Annotated 1953
203 **58-37-305 (Effective 05/06/26)**, Utah Code Annotated 1953
204 **58-37-401 (Effective 05/06/26)**, Utah Code Annotated 1953
205 **58-37c-201 (Effective 05/06/26)**, Utah Code Annotated 1953
206 **76-18-101 (Effective 05/06/26)**, Utah Code Annotated 1953
207 **76-18-102 (Effective 05/06/26)**, Utah Code Annotated 1953
208 **76-18-201 (Effective 05/06/26)**, Utah Code Annotated 1953
209 **76-18-202 (Effective 05/06/26)**, Utah Code Annotated 1953
210 **76-18-203 (Effective 05/06/26)**, Utah Code Annotated 1953
211 **76-18-204 (Effective 05/06/26)**, Utah Code Annotated 1953
212 **76-18-205 (Effective 05/06/26)**, Utah Code Annotated 1953
213 **76-18-206 (Effective 05/06/26)**, Utah Code Annotated 1953
214 **76-18-207 (Effective 05/06/26)**, Utah Code Annotated 1953
215 **76-18-208 (Effective 05/06/26)**, Utah Code Annotated 1953
216 **76-18-209 (Effective 05/06/26)**, Utah Code Annotated 1953
217 **76-18-210 (Effective 05/06/26)**, Utah Code Annotated 1953
218 **76-18-211 (Effective 05/06/26)**, Utah Code Annotated 1953
219 **76-18-212 (Effective 05/06/26)**, Utah Code Annotated 1953
220 **76-18-213 (Effective 05/06/26)**, Utah Code Annotated 1953
221 **76-18-214 (Effective 05/06/26)**, Utah Code Annotated 1953
222 **76-18-215 (Effective 05/06/26)**, Utah Code Annotated 1953
223 **76-18-216 (Effective 05/06/26)**, Utah Code Annotated 1953
224 **76-18-217 (Effective 05/06/26)**, Utah Code Annotated 1953
225 **76-18-218 (Effective 05/06/26)**, Utah Code Annotated 1953
226 **76-18-219 (Effective 05/06/26)**, Utah Code Annotated 1953
227 **76-18-305 (Effective 05/06/26)**, Utah Code Annotated 1953
228 **76-18-306 (Effective 05/06/26)**, Utah Code Annotated 1953
229 **76-18-405 (Effective 05/06/26)**, Utah Code Annotated 1953

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230 RENUMBERS AND AMENDS:

231 **58-37-101 (Effective 05/06/26)**, (Renumbered from 58-37-2, as last amended by Laws of Utah
2025, Chapter 396)

233 **58-37-102 (Effective 05/06/26)**, (Renumbered from 58-37-18, as enacted by Laws of Utah 1971,
Chapter 145)

235 **58-37-105 (Effective 05/06/26) (Partially Repealed 07/01/32)**, (Renumbered from 58-37-6, as
last amended by Laws of Utah 2022, Chapter 415)

237 **58-37-106 (Effective 05/06/26)**, (Renumbered from 58-37-17, as last amended by Laws of Utah
1987, Chapter 161)

239 **58-37-107 (Effective 05/06/26)**, (Renumbered from 58-37-3, as last amended by Laws of Utah
2011, Chapter 12)

241 **58-37-108 (Effective 05/06/26)**, (Renumbered from 58-37-4, as last amended by Laws of Utah
2025, Chapter 216)

243 **58-37-109 (Effective 05/06/26)**, (Renumbered from 58-37-4.2, as last amended by Laws of Utah
2020, Chapter 26)

245 **58-37-110 (Effective 05/06/26)**, (Renumbered from 58-37-5.5, as last amended by Laws of Utah
2008, Chapter 250)

247 **58-37-111 (Effective 05/06/26)**, (Renumbered from 58-37-2.5, as last amended by Laws of Utah
1990, Chapter 101)

249 **58-37-112 (Effective 05/06/26)**, (Renumbered from 58-37-7, as last amended by Laws of Utah
2024, Chapter 381)

251 **58-37-114 (Effective 05/06/26)**, (Renumbered from 58-37-15, as last amended by Laws of Utah
2025, Chapter 302)

253 **58-37-202 (Effective 05/06/26)**, (Renumbered from 58-37-8.5, as enacted by Laws of Utah 1997,
Chapter 64)

255 **58-37-203 (Effective 05/06/26)**, (Renumbered from 58-37-12, as last amended by Laws of Utah
1997, Chapter 64)

257 **58-37-204 (Effective 05/06/26)**, (Renumbered from 58-37-9, as last amended by Laws of Utah
1995, Chapter 20)

259 **58-37-205 (Effective 05/06/26)**, (Renumbered from 58-37-10, as last amended by Laws of Utah
2013, Chapter 278)

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261 **58-37-206 (Effective 05/06/26)**, (Renumbered from 58-37-11, as last amended by Laws of Utah
2024, Chapter 158)

263 **58-37-207 (Effective 05/06/26)**, (Renumbered from 58-37-14, as enacted by Laws of Utah 1971,
Chapter 145)

265 **58-37-302 (Effective 05/06/26)**, (Renumbered from 58-37-22, as last amended by Laws of Utah
2023, Chapter 329)

267 **58-37-303 (Effective 05/06/26)**, (Renumbered from 58-37-6.5, as last amended by Laws of Utah
2023, Chapter 329)

269 **58-37-306 (Effective 05/06/26)**, (Renumbered from 58-37-19, as last amended by Laws of Utah
2024, Chapter 381)

271 **58-37-307 (Effective 05/06/26)**, (Renumbered from 58-37-23, as enacted by Laws of Utah 2023,
Chapter 323)

273 **58-37-308 (Effective 05/06/26)**, (Renumbered from 58-37-6.1, as enacted by Laws of Utah 2025,
Chapter 430)

275 **58-37-309 (Effective 05/06/26) (Repealed 07/01/27)**, (Renumbered from 58-37-3.5, as last
amended by Laws of Utah 2025, First Special Session, Chapter 9)

277 **58-37-402 (Effective 05/06/26)**, (Renumbered from 58-37-3.9, as last amended by Laws of Utah
2023, Chapter 329)

279 **58-37-403 (Effective 05/06/26)**, (Renumbered from 58-37-3.6, as last amended by Laws of Utah
2025, Chapter 114)

281 **58-37-404 (Effective 05/06/26)**, (Renumbered from 58-37-3.7, as last amended by Laws of Utah
2023, Chapter 329)

283 **58-37-405 (Effective 05/06/26)**, (Renumbered from 58-37-3.8, as last amended by Laws of Utah
2023, Chapters 273, 329)

285 **58-37c-101 (Effective 05/06/26)**, (Renumbered from 58-37c-3, as last amended by Laws of Utah
2024, Chapter 113)

287 **58-37c-102 (Effective 05/06/26)**, (Renumbered from 58-37c-5, as last amended by Laws of Utah
2022, Chapter 415)

289 **58-37c-103 (Effective 05/06/26)**, (Renumbered from 58-37c-6, as last amended by Laws of Utah
2022, Chapter 415)

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58-37c-104 (Effective 05/06/26), (Renumbered from 58-37c-7, as last amended by Laws of Utah 2010, Chapter 240)

293 58-37c-105 (Effective 05/06/26), (Renumbered from 58-37c-8, as last amended by Laws of Utah 2013, Chapters 262, 413)

295 58-37c-106 (Effective 05/06/26), (Renumbered from 58-37c-9, as repealed and reenacted by Laws of Utah 1993, Chapter 297)

297 58-37c-107 (Effective 05/06/26), (Renumbered from 58-37c-10, as last amended by Laws of Utah 2008, Chapter 322)

299 58-37c-108 (Effective 05/06/26), (Renumbered from 58-37c-12, as repealed and reenacted by Laws of Utah 1993, Chapter 297)

301 58-37c-109 (Effective 05/06/26), (Renumbered from 58-37c-13, as enacted by Laws of Utah 1992, Chapter 155)

303 58-37c-110 (Effective 05/06/26), (Renumbered from 58-37c-14, as last amended by Laws of Utah 2008, Chapter 382)

305 58-37c-111 (Effective 05/06/26), (Renumbered from 58-37c-15, as last amended by Laws of Utah 2023, Chapter 448)

307 58-37c-112 (Effective 05/06/26), (Renumbered from 58-37c-17, as last amended by Laws of Utah 2013, Chapter 278)

309 58-37c-113 (Effective 05/06/26), (Renumbered from 58-37c-21, as last amended by Laws of Utah 2022, Chapter 415)

311 58-37c-114 (Effective 05/06/26), (Renumbered from 58-37c-11, as last amended by Laws of Utah 2013, Chapters 262, 413)

313 58-37c-202 (Effective 05/06/26), (Renumbered from 58-37c-18, as last amended by Laws of Utah 1999, Chapter 21)

315 58-37c-203 (Effective 05/06/26), (Renumbered from 58-37c-19, as last amended by Laws of Utah 2013, Chapters 262, 413)

317 58-37c-204 (Effective 05/06/26), (Renumbered from 58-37c-19.5, as last amended by Laws of Utah 2017, Chapter 345)

319 58-37c-205 (Effective 05/06/26), (Renumbered from 58-37c-19.7, as last amended by Laws of Utah 2013, Chapters 262, 413)

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58-37c-206 (Effective 05/06/26), (Renumbered from 58-37c-19.9, as last amended by Laws of Utah 2013, Chapters 262, 413)

323 58-37c-207 (Effective 05/06/26), (Renumbered from 58-37c-20, as last amended by Laws of Utah 2013, Chapters 262, 413)

325 58-37c-208 (Effective 05/06/26), (Renumbered from 58-37c-20.5, as enacted by Laws of Utah 2007, Chapter 358)

327 58-37e-101 (Effective 05/06/26), (Renumbered from 58-37e-2, as enacted by Laws of Utah 1997, Chapter 349)

329 58-37e-102 (Effective 05/06/26), (Renumbered from 58-37e-3, as enacted by Laws of Utah 1997, Chapter 349)

331 58-37e-103 (Effective 05/06/26), (Renumbered from 58-37e-4, as enacted by Laws of Utah 1997, Chapter 349)

333 58-37e-104 (Effective 05/06/26), (Renumbered from 58-37e-5, as enacted by Laws of Utah 1997, Chapter 349)

335 58-37e-105 (Effective 05/06/26), (Renumbered from 58-37e-6, as enacted by Laws of Utah 1997, Chapter 349)

337 58-37e-106 (Effective 05/06/26), (Renumbered from 58-37e-7, as enacted by Laws of Utah 1997, Chapter 349)

339 58-37e-107 (Effective 05/06/26), (Renumbered from 58-37e-8, as enacted by Laws of Utah 1997, Chapter 349)

341 58-37e-108 (Effective 05/06/26), (Renumbered from 58-37e-9, as enacted by Laws of Utah 1997, Chapter 349)

343 58-37e-109 (Effective 05/06/26), (Renumbered from 58-37e-10, as enacted by Laws of Utah 1997, Chapter 349)

345 58-37e-110 (Effective 05/06/26), (Renumbered from 58-37e-11, as enacted by Laws of Utah 1997, Chapter 349)

347 58-37e-111 (Effective 05/06/26), (Renumbered from 58-37e-12, as enacted by Laws of Utah 1997, Chapter 349)

349 58-37e-112 (Effective 05/06/26), (Renumbered from 58-37e-13, as enacted by Laws of Utah 1997, Chapter 349)

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58-37e-113 (Effective 05/06/26), (Renumbered from 58-37e-14, as enacted by Laws of Utah 1997, Chapter 349)

353 76-18-220 (Effective 05/06/26), (Renumbered from 58-37-8.1, as enacted by Laws of Utah 2025, Chapter 198)

355 76-18-221 (Effective 05/06/26), (Renumbered from 58-37-8.2, as renumbered and amended by Laws of Utah 2025, Chapters 173, 173)

357 76-18-222 (Effective 05/06/26), (Renumbered from 58-37-8.3, as renumbered and amended by Laws of Utah 2025, Chapter 173)

359 76-18-301 (Effective 05/06/26), (Renumbered from 58-37a-3, as last amended by Laws of Utah 2023, Chapter 312)

361 76-18-302 (Effective 05/06/26), (Renumbered from 58-37a-4, as last amended by Laws of Utah 2011, Chapter 101)

363 76-18-303 (Effective 05/06/26), (Renumbered from 58-37a-6, as last amended by Laws of Utah 2023, Chapter 448)

365 76-18-304 (Effective 05/06/26), (Renumbered from 58-37a-5, as last amended by Laws of Utah 2024, Chapter 143)

367 76-18-401 (Effective 05/06/26), (Renumbered from 58-37b-2, as last amended by Laws of Utah 2010, Chapter 64)

369 76-18-402 (Effective 05/06/26), (Renumbered from 58-37b-8, as enacted by Laws of Utah 1982, Chapter 32)

371 76-18-403 (Effective 05/06/26), (Renumbered from 58-37b-6, as last amended by Laws of Utah 1986, Chapter 178)

373 76-18-404 (Effective 05/06/26), (Renumbered from 58-37b-4, as last amended by Laws of Utah 1991, Chapter 241)

375 76-18-406 (Effective 05/06/26), (Renumbered from 58-37b-7, as last amended by Laws of Utah 1991, Chapter 241)

377 76-18-501 (Effective 05/06/26), (Renumbered from 58-37d-3, as last amended by Laws of Utah 2019, Chapter 420)

379 76-18-502 (Effective 05/06/26), (Renumbered from 58-37d-2, as last amended by Laws of Utah 2019, Chapter 420)

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76-18-503 (Effective 05/06/26), (Renumbered from 58-37d-9, as last amended by Laws of Utah 2022, Chapter 415)

383 76-18-504 (Effective 05/06/26), (Renumbered from 58-37d-7, as last amended by Laws of Utah 2023, Chapter 448)

385 76-18-505 (Effective 05/06/26), (Renumbered from 58-37d-6, as last amended by Laws of Utah 2019, Chapter 420)

387 76-18-506 (Effective 05/06/26), (Renumbered from 58-37d-4, as last amended by Laws of Utah 2019, Chapter 420)

389 REPEALS:

390 58-37-1 (Effective 05/06/26), as enacted by Laws of Utah 1971, Chapter 145

391 58-37-8 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapters 141, 173, 198, 208, and 305

393 58-37a-1 (Effective 05/06/26), as enacted by Laws of Utah 1981, Chapter 76

394 58-37a-2 (Effective 05/06/26), as enacted by Laws of Utah 1981, Chapter 76

395 58-37a-7 (Effective 05/06/26), as last amended by Laws of Utah 2017, Chapter 330

396 58-37b-1 (Effective 05/06/26), as enacted by Laws of Utah 1982, Chapter 32

397 58-37b-9 (Effective 05/06/26), as last amended by Laws of Utah 2017, Chapter 330

398 58-37c-1 (Effective 05/06/26), as repealed and reenacted by Laws of Utah 1992, Chapter 155

400 58-37c-2 (Effective 05/06/26), as repealed and reenacted by Laws of Utah 1992, Chapter 155

402 58-37c-16 (Effective 05/06/26), as enacted by Laws of Utah 1992, Chapter 155

403 58-37d-1 (Effective 05/06/26), as enacted by Laws of Utah 1992, Chapter 156

404 58-37d-5 (Effective 05/06/26), as last amended by Laws of Utah 2019, Chapter 420

405 58-37d-8 (Effective 05/06/26), as enacted by Laws of Utah 1997, Chapter 64

406 58-37e-1 (Effective 05/06/26), as enacted by Laws of Utah 1997, Chapter 349

407 Utah Code Sections affected by Coordination Clause:

408 58-37-10 (07/01/26) , as as renumbered to 58-37-205 in H.B. 301 (2026)

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

411 Section 1. Section 4-5-107 is amended to read:

412 **4-5-107. Food containing vaccine.**

405 (1) As used in this section, "vaccine or vaccine material" means a substance that is:

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406 (a) intended for use in humans to stimulate the production of antibodies and provide immunity against
disease;

408 (b) prepared from the causative agent of a disease, the disease's products, or a synthetic substitute
treated to act as an antigen without including the disease; and

410 (c) authorized or approved by the United States Food and Drug Administration.

411 (2) A food intended for human consumption that intentionally contains a vaccine or vaccine material is
considered a drug for purposes of this chapter, Section 26B-7-108, and [Title 58, Chapter 37, Utah
Controlled Substances Act] Title 58, Chapter 37, Controlled Substances.

423 Section 2. Section **4-41-402** is amended to read:

424 **4-41-402. Cannabinoid sales and use authorized.**

417 (1) The sale or use of a cannabinoid product is prohibited:

418 (a) except as provided in this chapter; or

419 (b) unless the United States Food and Drug Administration approves the product.

420 (2) The department shall keep a list of registered cannabinoid products that the department has
determined, in accordance with Section 4-41-403, are safe for human consumption.

422 (3)

424 (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products
described in Subsection (2).

426 (b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered
cannabinoid products described in Subsection (2) if:

427 (i) the individual purchased the product outside the state; and

428 (ii) the product's contents do not violate [Title 58, Chapter 37, Utah Controlled Substances Act] Title
58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning
Controlled Substances.

430 (4) Any marketing for a cannabinoid product shall include a notice to consumers that the product
is hemp or CBD and is not cannabis or medical cannabis, as those terms are defined in Section
26B-4-201.

433 (5) A cannabinoid product that is designed to be inhaled shall include a warning on the label regarding
the possible health effects of inhaling cannabinoid products.

443 Section 3. Section **4-41a-102** is amended to read:

444 **4-41a-102. Definitions.**

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As used in this chapter:

438 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to
health, including:

440 (a) pesticides;

441 (b) heavy metals;

442 (c) solvents;

443 (d) microbial life;

444 (e) artificially derived cannabinoid;

445 (f) toxins; or

446 (g) foreign matter.

447 (2) "Advertise" or "advertising" means information provided by a person in any medium:

448 (a) to the public; and

449 (b) that is not age restricted to an individual who is at least 21 years old.

450 (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section
26B-1-435.

452 (4)

454 (a) "Anticompetitive business practice" means any practice that is an illegal anticompetitive activity
under Section 76-16-510.

455 (b) "Anticompetitive business practice" may include:

456 (i) agreements that may be considered unreasonable when competitors interact to the extent that they
are:

457 (A) no longer acting independently; or

458 (B) when collaborating are able to wield market power together;

459 (ii) monopolizing or attempting to monopolize trade by:

460 (A) acting to maintain or acquire a dominant position in the market; or

461 (B) preventing new entry into the market; or

462 (iii) other conduct outlined in rule.

463 (5)

464 (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction
that changes the molecular structure of any chemical substance derived from the cannabis plant.

465 (b) "Artificially derived cannabinoid" does not include:

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467 (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or
mechanical extraction process; or

469 (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid
without the use of a chemical catalyst.

471 (6) "Batch" means a quantity of:

472 (a) cannabis extract produced on a particular date and time and produced between completion of
equipment and facility sanitation protocols until the next required sanitation cycle during which lots
of cannabis are used;

475 (b) cannabis product produced on a particular date and time and produced between completion of
equipment and facility sanitation protocols until the next required sanitation cycle during which
cannabis extract is used; or

478 (c) cannabis flower packaged on a particular date and time and produced between completion of
equipment and facility sanitation protocols until the next required sanitation cycle during which lots
of cannabis are being used.

481 (7) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section
26B-1-420.

483 (8) "Cannabis" means the same as that term is defined in Section 26B-4-201.

484 (9) "Cannabis concentrate" means:

485 (a) the product of any chemical or physical process applied to naturally occurring biomass that
concentrates or isolates the cannabinoids contained in the biomass; and

487 (b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived
cannabinoid's purified state.

489 (10) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be
sold as a cannabis plant product.

491 (11) "Cannabis cultivation facility" means a person that:

492 (a) possesses cannabis;

493 (b) grows or intends to grow cannabis; and

494 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a
medical cannabis research licensee.

496 (12) "Cannabis cultivation facility agent" means an individual who

497

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holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

- 499 (13) "Cannabis derivative product" means a product made using cannabis concentrate.
- 500 (14) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.
- 502 (15) "Cannabis processing facility" means a person that:
 - 503 (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - 504 (b) possesses cannabis with the intent to manufacture a cannabis product;
 - 505 (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - 507 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- 509 (16) "Cannabis processing facility agent" means an individual who
 - 510 holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.
- 512 (17) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
- 513 (18) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- 515 (19) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- 517 (20) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
 - 519 (a) authorizes an individual to act as a cannabis production establishment agent; and
 - 520 (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- 522 (21) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering medical cannabis.
- 524 (22) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.
- 526 (23) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis

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cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

530 (24) "Delivery address" means:

531 (a) for a medical cannabis cardholder who is not a facility:

532 (i) the medical cannabis cardholder's home address; or

533 (ii) an address designated by the medical cannabis cardholder that:

534 (A) is the medical cannabis cardholder's workplace; and

535 (B) is not a community location; or

536 (b) for a medical cannabis cardholder that is a facility, the facility's address.

537 (25) "Department" means the Department of Agriculture and Food.

538 (26) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

541 (27) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

544 (28) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders.

547 (29)

548 (a) "Independent cannabis testing laboratory" means a person that:

549 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

550 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

551 (b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

553 (30) "Independent cannabis testing laboratory agent" means an individual who

554 holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

556 (31) "Inventory control system" means a system described in Section 4-41a-103.

557 (32) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

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559 (33) "Medical cannabis" or "medical cannabis product" means the same as that term is defined in
Section 26B-4-201.

561 (34) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

562 (35) "Medical cannabis courier" means a courier that:
563 (a) the department licenses in accordance with Section 4-41a-1201; and
564 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to
fulfill electronic orders.

566 (36) "Medical cannabis courier agent" means an individual who:
567 (a) is an employee of a medical cannabis courier; and
568 (b) who holds a valid medical cannabis courier agent registration card.

569 (37) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

571 (38) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

573 (39) "Medical cannabis research license" means a license that the department issues to a research
university for the purpose of obtaining and possessing medical cannabis for academic research.

576 (40) "Medical cannabis research licensee" means a research university that the department licenses to
obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

579 (41) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical
cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an
electronic medical cannabis order.

582 (42) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

584 (43) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

585 (44) "Patient product information insert" means the same as that term is defined in Section 26B-4-201.

587 (45) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical
cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

590 (46) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

592 (47) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

593 (48) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

595 (49) "Research university" means the same as that term is defined in Section 53H-8-202 and a private,
nonprofit college or university in the state that:
597 (a) is accredited by the Northwest Commission on Colleges and Universities;
598 (b) grants doctoral degrees; and

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599 (c) has a laboratory containing or a program researching a schedule I controlled substance described in
Section [58-37-4] 58-37-108.

601 (50) "State electronic verification system" means the system described in Section 26B-4-202.

602 (51) "Targeted marketing" means the promotion of medical cannabis, a medical cannabis brand, or a
medical cannabis device using any of the following methods:

604 (a) electronic communication to an individual who is at least 21 years old and has requested to receive
promotional information;

606 (b) an in-person marketing event that is:

607 (i) held inside a medical cannabis pharmacy; and

608 (ii) in an area where only a medical cannabis cardholder may access the event;

609 (c) other marketing material that is physically available or digitally displayed in a medical cannabis
pharmacy; or

611 (d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an
individual when obtaining medical cannabis:

613 (i) in the medical cannabis pharmacy;

614 (ii) at the medical cannabis pharmacy's drive-through pick up window; or

615 (iii) in a medical cannabis shipment.

616 (52) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

618 (53) "Tier one cannabis processing facility" means a cannabis processing facility that is able to:

620 (a) create cannabis concentrate;

621 (b) create cannabis derivative product; and

622 (c) package and label medical cannabis.

623 (54) "Tier two cannabis processing facility" means a cannabis processing facility that is able to package
and label medical cannabis only if the medical cannabis is a cannabis plant product.

626 (55) "THC analog" means the same as that term is defined in Section 4-41-102.

627 (56) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

629 (57) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section
4-41-102.

639 Section 4. Section **4-41a-302** is amended to read:

640 **4-41a-302. Cannabis production establishment agent registration card -- Rebuttable
presumption.**

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634 (1) A cannabis production establishment agent whom the department registers under Section 4-41a-301
635 shall carry the individual's cannabis production establishment agent registration card with the agent
636 at all times when:
637 (a) the agent is on the premises of a cannabis production establishment where the agent is registered;
638 (b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal
639 dosage form, or a medical cannabis device between:
640 (i) two cannabis production establishments; or
641 (ii) a cannabis production establishment and a medical cannabis pharmacy; and
642 (c) if the cannabis production establishment agent is an agent of a cannabis cultivation facility, the agent
643 is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis
644 testing laboratory.

645 (2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis
646 product in a medicinal dosage form, or a medical cannabis device and produces the registration
647 card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis
648 production establishment, or transporting the cannabis, cannabis product, or medical cannabis
649 device in compliance with Subsection (1):
650 (a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis product, or medical
651 cannabis device legally; and
652 (b) a law enforcement officer does not have probable cause, based solely on the agent's possession
653 of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
654 cannabis device in compliance with Subsection (1), to believe that the individual is engaging in
655 illegal activity.

656 (3)
657 (a) A cannabis production establishment agent who fails to carry the agent's cannabis production
658 establishment agent registration card in accordance with Subsection (1) is:
659 (i) for a first or second offense in a two-year period:
660 (A) guilty of an infraction; and
661 (B) subject to a \$100 fine; or
662 (ii) for a third or subsequent offense in a two-year period:
663 (A) guilty of a class C misdemeanor; and
664 (B) subject to a \$750 fine.

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665 (b)

(i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

667 (ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

671 (c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of ~~Title 58, Chapter 37, Utah Controlled Substances Act~~ Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the conduct underlying the violation described in Subsection (3)(a).

684 Section 5. Section **4-41a-404** is amended to read:

685 **4-41a-404. Medical cannabis transportation.**

678 (1)

(a) Except as provided in Part 12, Medical Cannabis Home Delivery and Couriers, the following individuals may transport cannabis or a cannabis product under this chapter:

681 (i) a cannabis production establishment agent;

682 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter;

684 (iii) a registered medical cannabis pharmacy agent;

685 (iv) a registered medical cannabis courier agent; and

686 (v) a registered pharmacy medical provider.

687 (b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

690 (2) Except for an individual with a valid medical cannabis card under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, who is transporting a medical cannabis treatment, an individual transporting cannabis or a cannabis product shall:

693 (a) be employed by the entity licensed under this chapter that is authorizing the transportation of the cannabis or cannabis product; and

695 (b) possess a transportation manifest that:

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696 (i) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory
control system;

698 (ii) includes origin and destination information for any cannabis or cannabis product that the individual
is transporting; and

700 (iii) identifies the departure and arrival times and locations of the individual transporting the cannabis or
cannabis product.

702 (3)

706 (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule,
in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for
transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains
safe for human consumption.

707 (b) The transportation described in Subsection (3)(a) is limited to transportation:

709 (i) between a cannabis production establishment and another cannabis production establishment;

710 (ii) between a cannabis processing facility and a medical cannabis pharmacy; and

711 (iii) between a medical cannabis pharmacy and:

712 (A) another medical cannabis pharmacy; or

713 (B) for a medical cannabis shipment, a delivery address.

714 (4)

716 (a) It is unlawful for a registered cannabis production establishment agent to make a transport described
in this section with a manifest that does not meet the requirements of this section.

717 (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

718 (i) guilty of an infraction; and

719 (ii) subject to a \$100 fine.

720 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation
of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled
Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the
conduct underlying the violation described in Subsection (4)(b).

721 (d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than
the manifest identifies, except for a de minimis administrative error:

722 (i) the penalty described in Subsection (4)(b) does not apply; and

723

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(ii) the agent is subject to penalties under [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

730 (5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment, medical cannabis pharmacy, medical cannabis courier, or another person for failing to make a transport in compliance with the requirements of this section.

734 (6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

745 Section 6. Section **4-41a-801** is amended to read:

4-41a-801. Enforcement -- Fine -- Citation.

739 (1)

(a) If a person that is a cannabis production establishment, a cannabis production establishment agent, a medical cannabis pharmacy, a medical cannabis pharmacy agent, or a medical cannabis courier, violates this chapter, the department may:

742 (i) revoke the person's license or agent registration card;

743 (ii) decline to renew the person's license or agent registration card;

744 (iii) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

747 (iv) provide a letter of concern in accordance with Subsection (8).

748 (b) Except for a violation that threatens public health or for the third violation of the same rule or statute in a 24-month period, the department shall issue a letter of concern before taking other administrative action under this section.

751 (2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

753 (3)

(a) The department may take an action described in Subsection (3)(b) if the department concludes, upon investigation, that, for a person that is a cannabis production establishment, a cannabis production establishment agent, a medical cannabis pharmacy, a medical cannabis pharmacy agent, or a medical cannabis courier:

758 (i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or.

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(ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.

If the department makes the determination about a person described in Subsection (3)(a), the department may:

- issue the person a written administrative citation;
- attempt to negotiate a stipulated settlement;
- order the person to cease and desist from the action that creates a violation; or
- direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

If the department concludes, upon investigation, that a cannabis production establishment or a cannabis production establishment agent has produced a cannabis batch or a cannabis product batch that contains a substance that poses a significant threat to human health, the department shall seize, embargo, or destroy the cannabis batch or cannabis product batch.

The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person, who is not an individual, a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

The department may not revoke a license without first directing the licensee to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act. If within 30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

The department may, for a person who fails to comply with a citation under this section:

- refuse to issue or renew the person's license or agent registration card; or
- suspend, revoke, or place on probation the person's license or registration card.

A letter of concern shall describe:

- (i) the violation including the statute or rule being violated;
- (ii) possible options to remedy the issue; and
- (iii) possible consequences for not remedying the violation.

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793 (b) Under a letter of concern, the department shall provide the person at least 30 days to remedy the
794 violation.

795 (c) If the person fails to remedy the violation described in a letter of concern, the department may take
796 other enforcement action as described in this section.

797 (d) If a letter of concern is resolved without an enforcement action being taken under Subsection (8)(c),
798 the department may not report that a letter of concern was issued to the licensing board.

800 (9)

801 (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, or
802 where civil and criminal penalties are provided for violations of Section 76-10-31, if an individual:
803 (i) violates a provision of this chapter, the individual is:
804 (A) guilty of an infraction; and
805 (B) subject to a \$100 fine; or
806 (ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or
807 more times, the individual is:
808 (A) guilty of a class B misdemeanor; and
809 (B) subject to a \$1,000 fine.

810 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation
811 of ~~Title 58, Chapter 37, Utah Controlled Substances Act~~ Title 58, Chapter 37, Controlled
812 Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the
813 conduct underlying the violation described in Subsection (9)(a).

815 (10) Nothing in this section prohibits:
816 (a) the department from referring potential criminal activity to law enforcement; or
817 (b) the attorney general from investigating or prosecuting individuals or businesses for violations of
818 ~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~ Title 76, Chapter 16, Part 5, Antitrust Offenses.

820 (11) An appeal of administrative action taken under this chapter shall be heard by an administrative
821 law judge as an informal proceeding in accordance with Title 63G, Chapter 4, Administrative
822 Procedures Act.

823 Section 7. Section **4-41a-1107** is amended to read:

824 **4-41a-1107. Medical cannabis pharmacy agent registration card -- Rebuttable presumption.**

825 (1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis pharmacy agent
826 registration card with the individual at all times when:

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828 (a) the individual is on the premises of a medical cannabis pharmacy; and

829 (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.

832 (2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

837 (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

839 (b) there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.

843 (3)

845 (a) A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:

846 (i) for a first or second offense in a two-year period:

847 (A) guilty of an infraction; and

848 (B) is subject to a \$100 fine; or

849 (ii) for a third or subsequent offense in a two-year period:

850 (A) guilty of a class C misdemeanor; and

851 (B) subject to a \$750 fine.

853 (b)

855 (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

857 (ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled

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Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the conduct underlying the violation described in Subsection (3)(a).

870 Section 8. Section **4-41a-1203** is amended to read:

871 **4-41a-1203. Medical cannabis shipment transportation.**

864 (1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

867 (2)

870 (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders.

872 (b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

874 (i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

875 (ii) provide regular oversight of the medical cannabis courier.

877 (3) Notwithstanding Subsection 4-41a-404(1), an individual may transport a medical cannabis shipment if the individual is:

878 (a) a registered pharmacy medical provider;

879 (b) a registered medical cannabis pharmacy agent; or

880 (c) a registered agent of the medical cannabis courier described in Subsection (2).

882 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall comply with the requirements of Subsection 4-41a-404(3).

887 (5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of medical cannabis.

887 (6)

889 (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

889 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

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- 891 (i) guilty of an infraction; and
- 892 (ii) subject to a \$100 fine.
- 893 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the conduct underlying the violation described in Subsection (6)(b).
- 898 (d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:
 - 901 (i) this chapter does not apply; and
 - 902 (ii) the individual is subject to penalties under [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

913 Section 9. Section **4-41a-1204** is amended to read:

4-41a-1204. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

- 908 (1) An individual may not serve as a medical cannabis courier agent unless the department registers the individual as a medical cannabis courier agent.
- 910 (2)
 - (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:
 - 914 (i) provides to the department:
 - 915 (A) the prospective agent's name and address;
 - 916 (B) the name and address of the medical cannabis courier;
 - 917 (C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and
 - 920 (D) the submission required under Subsection (2)(b);
 - 921 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:
 - 923 (A) a felony; or
 - 924 (B) after December 3, 2018, a misdemeanor for drug distribution; and

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(iii) pays the department a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

Each prospective agent described in Subsection (2)(a) shall:

submit to the department:

a fingerprint card in a form acceptable to the Department of Public Safety; and

a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

consent to a fingerprint background check by:

the Bureau of Criminal Identification; and

the Federal Bureau of Investigation.

The Bureau of Criminal Identification shall:

check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

report the results of the background check to the department;

maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

The department shall:

assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

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(a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

965 (b) The department shall ensure that the certification standard described in Subsection (3)(a) includes training in:

967 (i) Utah medical cannabis law;

968 (ii) the medical cannabis shipment process; and

969 (iii) medical cannabis courier agent best practices.

970 (4)

972 (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

973 (b) A medical cannabis courier agent may renew the agent's registration card if the agent:

974 (i) is eligible for a medical cannabis courier agent registration card under this section;

975 (ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

976 (iii) pays to the department a renewal fee in an amount that:

977 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

978 (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

981 (5) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

983 (a) violates the requirements of this chapter; or

984 (b) is convicted under state or federal law of:

985 (i) a felony within the preceding 10 years; or

986 (ii) after December 3, 2018, a misdemeanor for drug distribution.

987 (6) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

990 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a delivery address; and

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992 (b) the agent is handling a medical cannabis shipment.

993 (7) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in
compliance with Subsection (6):

995 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and

996 (b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment
that the agent is engaging in illegal activity.

998 (8)

999 (a) A medical cannabis courier agent who violates Subsection (6) is:

1000 (i) guilty of an infraction; and

1001 (ii) subject to a \$100 fine.

1006 (b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation
of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled
Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the
conduct underlying the violation described in Subsection (8)(a).

1007 (9) A medical cannabis courier shall:

1008 (a) maintain a list of employees who have a medical cannabis courier agent card; and

1017 (b) provide the list to the department upon request.

1018 Section 10. Section **4-45-104** is amended to read:

1019 **4-45-104. Kratom processor requirements -- Criminal penalty.**

1020 (1) A kratom processor may not prepare, distribute, sell, or offer for sale a kratom product:

1021 (a) that is mixed or packed with a nonkratom substance that affects the quality or strength of the kratom
product to such a degree as to render the kratom product injurious to a consumer;

1022 (b) that contains a poisonous or otherwise deleterious nonkratom ingredient, including a controlled
substance as defined in Section [58-37-2] 58-37-101;

1023 (c) containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% of the
alkaloid composition of the kratom product;

1024 (d) containing a synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or
any other synthetically derived compound of the kratom plant; or

1025 (e) that does not include a product label on the kratom product packaging that states the amount of
mitragynine and 7-hydroxymitragynine contained in the packaged kratom product.

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(2) A kratom processor who violates Subsection (1) is guilty of a class C misdemeanor for each violation.

1028 (3) A kratom processor does not violate Subsection (1) if the kratom processor shows by a preponderance of the evidence that the kratom processor relied in good faith upon the representation of a manufacturer, processor, packer, or distributor of food represented to be a kratom product.

1032 (4) A kratom processor may not prepare, distribute, sell, or offer for sale a kratom product that is not registered with the department in accordance with this chapter.

1034 (5) A kratom processor shall register as a food establishment in accordance with Section 4-5-301.

1044 Section 11. Section **10-8-47** is amended to read:

1045 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, tobacco products, electronic cigarette products, or nicotine products to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

1042 (1) A municipal legislative body may:

1043 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

1046 (b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

1048 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

1050 (d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in the cases when the money or property embezzled or obtained under false pretenses does not exceed in value the sum of \$500;

1054 (e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to an individual younger than 21 years old; or

1056 (f) prohibit the sale, giving away, or furnishing of a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-9-1101 to an individual younger than 21 years old.

1059 (2) A city may:

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1060 (a) by ordinance, prohibit the possession of controlled substances as defined in [the Utah Controlled
Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2,
Offenses Concerning Controlled Substances, or any other endangering or impairing substance,
provided the conduct is not a class A misdemeanor or felony; and

1065 (b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are addicted to the
use of drugs or intoxicants such that an individual substantially lacks the capacity to control the
individual's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of
effecting the individual's rehabilitation.

1077 Section 12. Section **17-72-101** is amended to read:

1078 **17-72-101. Definitions.**

As used in this chapter:

1072 (1) "Commissary account" means an account from which a prisoner may withdraw money, deposited by
the prisoner or another individual, to purchase discretionary items for sale by a correctional facility.

1075 (2) "Commissary purchase" means a transaction initiated by a prisoner by which the prisoner obtains an
item or items offered for sale by the correctional facility in exchange for money withdrawn from the
prisoner's commissary account.

1078 (3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section
63M-7-201.

1080 (4) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

1081 (5) "County inmate" means an inmate who is sentenced to a county jail.

1082 (6) "Cross-sex hormone treatment" means the same as that term is defined in Section
26B-4-1001.281-12(6)

1084 (7)

1086 (a) "In-custody death" means a prisoner death that occurs while the prisoner is in the custody of a
county jail.

1087 (b) "In-custody death" includes a prisoner death that occurs while the prisoner is:

1088 (i) being transported for health care; or

1088 (ii) receiving health care outside of a county jail.

1089 (8) "Inmate" means a prisoner who is in the custody of a correctional facility following a criminal
conviction.

1091

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(9) "Medication assisted treatment plan" means a prescription plan to use prescribed medication approved by the Food and Drug Administration, such as buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

1095 (10) "Notice" means all papers and orders, except process, required to be served in any proceeding before any court, board, commission, or officer, or when required by law to be served independently of a court proceeding.

1098 (11) "Opiate" means the same as that term is defined in Section [58-37-2] 58-37-101.

1099 (12) "Primary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-1001.

1101 (13) "Prisoner" means an individual who is:

1102 (a) in custody of a peace officer in accordance with a lawful arrest; or

1103 (b) confined in a county jail.

1104 (14) "Police interlocal entity" means the same as that term is defined in Sections 17-76-201 and 17-76-301.

1106 (15) "Police special district" means the same as that term is defined in Section 17-76-201.

1107 (16) "Probationer" means an individual on probation under the supervision of the county sheriff.

1109 (17) "Process" means all writs, warrants, summonses and orders of the courts of justice or judicial officers.

1111 (18)

1113 (a) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

1113 (b) "Qualifying domestic violence offense" does not include criminal mischief as that term is defined in Section 76-6-106.

1115 (19) "State inmate" means an inmate who is sentenced to the Department of Corrections, created in Section 64-13-2, even if the inmate is in the custody of a county jail.

1117 (20) "Secondary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-1001.

1119 (21) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

1128 Section 13. Section **19-6-902** is amended to read:

1129 **19-6-902. Definitions.**

1123 As used in this part:

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- (1) "Board" means the Waste Management and Radiation Control Board, as defined in Section 19-1-106, within the Department of Environmental Quality.
- (2) "Certified decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has been certified by the board under Subsection 19-6-906(2).
- (3) "Contaminated" or "contamination" means:
 - (a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or
 - (b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health and Human Services under Section 26B-7-409.
- (4) "Contamination list" means a list maintained by the local health department of properties:
 - (a) reported to the local health department under Section 19-6-903; and
 - (b) determined by the local health department to be contaminated.
- (5)
 - (a) "Decontaminated" means property that at one time was contaminated, but the contaminants have been removed.
 - (b) "Decontaminated" for a property that was contaminated by the use, production, or presence of methamphetamine means that the property satisfies decontamination standards adopted by the Department of Health and Human Services under Section 26B-7-409.
- (6) "Hazardous materials":
 - (a) has the same meaning as "hazardous or dangerous material" as defined in Section [58-37d-3] 76-18-501; and
 - (b) includes any illegally manufactured controlled substances.
- (7) "Health department" means a local health department under Title 26A, Local Health Authorities.
- (8) "Owner of record":
 - (a) means the owner of real property as shown on the records of the county recorder in the county where the property is located; and
 - (b) may include an individual, financial institution, company, corporation, or other entity.
- (9) "Property":

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(a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and

1157 (b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

1160 (10) "Reported property" means property that is the subject of a law enforcement report under Section 19-6-903.

1170 Section 14. Section **26B-2-120** is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

1165 (1) As used in this section:

1166 (a)

(i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

1169 (A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

1171 (B) a foster parent or prospective foster parent;

1172 (C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

1174 (D) an individual who transports a child for a youth transportation company;

1175 (E) an individual who provides certified peer support, as defined in Section 26B-5-610;

1177 (F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

1180 (G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

1183 (H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

1186 (I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

1189

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- (J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;
- (K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or
- (L) a short-term relief care provider.

(ii) "Applicant" does not include:

- (A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;
- (B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;
- (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or
- (D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

- (i) an arrest for a criminal offense;
- (ii) a warrant for a criminal arrest;
- (iii) charges for a criminal offense; or
- (iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

- (i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or
- (ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f)

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[f)] "Direct access qualified" means that:

{f} [-]

(i) the applicant has an eligible determination by the office within the license and renewal time period; and

1227 (ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

1229 (g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

1231 (h) "Licensee" means an individual or a human services program licensed by the division.

1233 (i) "Non-criminal finding" means a record maintained in:

1234 (i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

1236 (ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

1238 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

1240 (iv) juvenile court arrest, adjudication, and disposition records;

1241 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

1244 (vi) a state child abuse or neglect registry.

1245 (j) "Office" means the Office of Background Processing within the department.

1246 (k) "Personal identifying information" means:

1247 (i) current name, former names, nicknames, and aliases;

1248 (ii) date of birth;

1249 (iii) physical address and email address;

1250 (iv) telephone number;

1251 (v) driver license or other government-issued identification;

1252 (vi) social security number;

1253 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

1255

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(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1257 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

1259 (a) personal identifying information;

1260 (b) a fee established by the office under Section 63J-1-504;

1261 (c) a disclosure form, specified by the office, for consent for:

1262 (i) an initial background check upon association with a certification, contract, or licensee with the department;

1264 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

1266 (iii) a background check when the office determines that reasonable cause exists; and

1267 (iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

1269 (d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

1274 (e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

1279 (3) The office:

1280 (a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

1282 (i) check state and regional criminal background databases for the applicant's criminal history by:

1284 (A) submitting personal identifying information to the bureau for a search; or

1285 (B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

1287 (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

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- 1290 (iii) search the Division of Child and Family Services' Licensing Information System described in
 Section 80-2-1002;
- 1292 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 53, Chapter 29, Sex,
 Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18
 years old or older;
- 1295 (v) search the Division of Child and Family Services' Management Information System in Section
 80-2-1001, if the applicant is:
 - 1297 (A) a prospective foster or adoptive parent;
 - 1298 (B) an employee of a congregate care program; or
 - 1299 (C) an adult who lives in a foster home.
- 1300 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation
 database described in Section 26B-6-210;
- 1302 (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect
 described in Section 80-3-404 or 80-3-504; and
- 1304 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section
 78A-6-209;
- 1306 (b) may conduct all or portions of a background check in connection with determining whether an
 applicant is direct access qualified, as provided by rule, made by the office in accordance with Title
 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - 1309 (i) for an annual renewal; or
 - 1310 (ii) when the office determines that reasonable cause exists;
 - 1311 (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau
 for checking, retaining, and monitoring of state and national criminal background databases and for
 notifying the office of new criminal activity associated with the applicant;
 - 1315 (d) shall track the status of an applicant under this section to ensure that the applicant is not required to
 duplicate the submission of the applicant's fingerprints if the applicant is associated with more than
 one certification, contract, or licensee with the department;
 - 1319 (e) shall notify the bureau when a direct access qualified individual has not been associated with a
 certification, contract, or licensee with the department for a period of 180 days;
 - 1322 (f) shall adopt measures to strictly limit access to personal identifying information solely to the
 individuals responsible for processing and entering the applications for background checks and to

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protect the security of the personal identifying information the office reviews under this Subsection (3);

1326 (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

1329 (i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

1331 (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

1334 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

1337 (4)

(a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

1340 (b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

1343 (c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

1345 (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

1347 (ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

1349 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

1352 (i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

1355 (ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

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1357 (e) The bureau shall notify and release to the office all information of criminal activity associated with
the applicant.

1359 (f) Upon notice that an individual who has direct access qualified status will no longer be associated
with a certification, contract, or licensee with the department, the bureau shall:

1362 (i) discard and destroy any retained fingerprints; and

1363 (ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct
access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation
will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next
Generation Identification System.

1367 (5)

1370 (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an
applicant who, within three years from the date on which the office conducts the background check,
was convicted of:

1371 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

1373 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or
bestiality;

1375 (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual
exploitation of a minor;

1376 (C) sexual solicitation or prostitution;

1378 (D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

1379 (E) an offense included in Title 76, Chapter 5, Part 1, 2, 3, 4, or 7;

1381 (F) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act, other than Section 76-5b-206;

1382 (G) an offense included in Title 76, Chapter 7, Offenses Against the Family;

1383 (H) an offense included in Title 76, Chapter 12, Part 3, Privacy Offenses;

1385 (I) an offense included in Title 76, Chapter 15, Part 3, Weapons of Mass Destruction;

1387 (J) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

1388 (K) aggravated arson, as described in Section 76-6-103;

1389 (L) aggravated burglary, as described in Section 76-6-203;

1390 (M) aggravated exploitation of prostitution, as described in Section 76-5d-208;

1391 (N) aggravated robbery, as described in Section 76-6-302;

1391 (O) endangering persons in a human services program, as described in Section 26B-2-113;

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1393 (P) failure to report, as described in Section 80-2-609;
1394 (Q) identity fraud crime, as described in Section 76-6-1102;
1395 (R) riot, as described in Section 76-9-101; or
1396 (S) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section
76-11-207; or
1398 (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state,
would constitute a violation of an offense described in Subsection (5)(a)(i).

1401 (b)
1405 (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider
or a mental health professional, if the applicant provides services in a program that serves only
adults with a primary mental health diagnosis, with or without a co-occurring substance use
disorder.
1407 (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in
accordance with Subsection (7).
1409 (c) Subject to Subsection (5)(d), the office shall deny direct access qualified status to an applicant who:
1410 (i) a court order prohibits from having direct access to a child or vulnerable adult; or
1411 (ii) is an applicant for a congregate care program and:
1412 (A) is subject to an open investigation for a non-criminal finding; or
1415 (d)
1418 (i) Subsection (5)(c) does not apply retrospectively for congregate care program employees who have
an approved background screening on or before July 1, 2025; or
1421 (ii) notwithstanding Subsection (5)(c)(ii)(A), the division may grant temporary direct access qualified
status to an applicant subject to a condition that the applicant is directly supervised at all times.
1423 (6) The office shall conduct a comprehensive review of an applicant's background check if the
applicant:
1426 (a) has a felony or class A misdemeanor conviction that is more than three years from the date on which
the office conducts the background check, for an offense described in Subsection (5)(a);

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- (b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
- 1429 (c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;
- 1433 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);
- 1436 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;
- 1440 (f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
- 1443 (g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;
- 1447 (h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);
- 1449 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
- 1452 (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:
 - 1454 (i) under 28 years old; or
 - 1455 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);
- 1458 (k) has a pending charge for an offense described in Subsection (5)(a);
- 1459 (l) has a supported finding that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

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- (m) has a supported finding that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;
- 1466 (n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- 1470 (o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 1474 (p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- 1477 (q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

1481 (7)

- (a) The comprehensive review shall include an examination of:
 - 1482 (i) the date of the offense or incident;
 - 1483 (ii) the nature and seriousness of the offense or incident;
 - 1484 (iii) the circumstances under which the offense or incident occurred;
 - 1485 (iv) the age of the perpetrator when the offense or incident occurred;
 - 1486 (v) whether the offense or incident was an isolated or repeated incident;
 - 1487 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:
 - 1489 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
 - 1490 (B) sexual abuse;
 - 1491 (C) sexual exploitation; or
 - 1492 (D) negligent treatment;

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- (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;
- 1495 (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and
- 1497 (ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.
- 1502 (b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.
- 1505 (8) The office shall grant direct access qualified status to an applicant who is not denied under this section.
- 1507 (9)
 - (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:
 - 1510 (i) is awaiting the results of the criminal history search of national criminal background databases; and
 - 1512 (ii) would otherwise grant direct access qualified status to the applicant under this section.
 - 1514 (b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:
 - 1517 (i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and
 - 1519 (ii) would otherwise grant direct access qualified status to the applicant under this section.
 - 1521 (c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.
- 1524 (10)

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- (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.
- 1527 (b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:
 - 1529 (i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;
 - 1531 (ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;
 - 1533 (iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or
 - 1535 (iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.
- 1538 (c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.
- 1542 (11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.
- 1545 (12)
 - (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.
 - 1547 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.
 - 1549 (c) The office shall conduct a comprehensive review for an applicant if:
 - 1550 (i) the applicant is seeking a position:
 - 1551 (A) as a peer support provider;
 - 1552 (B) as a mental health professional; or
 - 1553 (C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and
- 1555

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- (ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

1558 (13)

- (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.
- (b) As federally required, the office shall:

1562 (i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

1563 (ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

1568 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:

1574 (i) federal law or rule permits otherwise; or

1575 (ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

1578 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

1579 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

1582 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

1584 (i) a felony involving conduct that constitutes any of the following:

1585 (A) child abuse, as described in Section 76-5-109;

1586 (B) aggravated child abuse, as described in Section 76-5-109.2;

1587 (C) child abandonment, as described in Section 76-5-109.3;

1588 (D) child torture, as described in Section 76-5-109.4;

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1589 (E) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

1591 (F) abuse or neglect of a child with a disability, as described in Section 76-5-110;

1592 (G) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

1594 (H) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

1596 (I) aggravated murder, as described in Section 76-5-202;

1597 (J) murder, as described in Section 76-5-203;

1598 (K) manslaughter, as described in Section 76-5-205;

1599 (L) child abuse homicide, as described in Section 76-5-208;

1600 (M) homicide by assault, as described in Section 76-5-209;

1601 (N) kidnapping, as described in Section 76-5-301;

1602 (O) child kidnapping, as described in Section 76-5-301.1;

1603 (P) aggravated kidnapping, as described in Section 76-5-302;

1604 (Q) human trafficking of a child, as described in Section 76-5-308.5;

1605 (R) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, or 76-5-419;

1607 (S) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

1609 (T) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

1610 (U) aggravated arson, as described in Section 76-6-103;

1611 (V) aggravated burglary, as described in Section 76-6-203;

1612 (W) aggravated robbery, as described in Section 76-6-302;

1613 (X) incest, as described in Section 76-7-102; or

1614 (Y) domestic violence, as described in Section 77-36-1; or

1615 (ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

1617 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

1621 (i) aggravated assault, as described in Section 76-5-103;

1622 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

1623 (iii) mayhem, as described in Section 76-5-105;

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1624 (iv) an offense described in [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter
37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled
Substances;

1627 (v) an offense described in [Title 58, Chapter 37a, Utah Drug Paraphernalia Act] Title 76, Chapter 18,
Part 3, Offenses Concerning Drug Paraphernalia;

1629 (vi) an offense described in [Title 58, Chapter 37b, Imitation Controlled Substances Act] Title 76,
Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances;

1632 (vii) an offense described in [Title 58, Chapter 37c, Utah Controlled Substance Precursor Act] Title 58,
Chapter 37c, Controlled Substance Precursors;[-{f} or]

1634 (viii) an offense described in [Title 58, Chapter 37d, Clandestine Drug Lab Act] Title 76, Chapter 18,
Part 5, Clandestine Drug Labs; or

1636 (ix) an offense described in a statute previously in effect in this state that is the same or substantially
similar to an offense described in Subsections (13)(e)(i) through (viii).

1639 (f) In addition to the circumstances described in Subsection (6), the office shall conduct a
comprehensive review of an applicant's background check under this section if the applicant:

1642 (i) has an offense described in Subsection (5)(a);

1643 (ii) has an infraction conviction entered on a date that is no more than three years before the date on
which the office conducts the background check;

1645 (iii) has a listing in the Division of Child and Family Services' Licensing Information System described
in Section 80-2-1002;

1647 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation
database described in Section 26B-2-210;

1649 (v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

1651 (vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or
supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

1654 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may
make rules, consistent with this part, to:

1656 (a) establish procedures for, and information to be examined in, the comprehensive review described in
Subsections (6), (7), and (13); and

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(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 15. Section **26B-2-229** is amended to read:

26B-2-229. Disposal of controlled substances at nursing care facilities.

- (1) As used in this section:
 - (a) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.
 - (b)
 - (i) "Irretrievable" means a state in which the physical or chemical condition of a controlled substance is permanently altered through irreversible means so that the controlled substance is unavailable and unusable for all practical purposes.
 - (ii) A controlled substance is irretrievable if the controlled substance is non-retrievable as that term is defined in 21 C.F.R. Sec. 1300.05.
- (2) A nursing care facility that is in lawful possession of a controlled substance in the nursing care facility's inventory that desires to dispose of the controlled substance shall dispose of the controlled substance in a manner that:
 - (a) renders the controlled substance irretrievable; and
 - (b) complies with all applicable federal and state requirements for the disposal of a controlled substance.
- (3) A nursing care facility shall:
 - (a) develop a written plan for the disposal of a controlled substance in accordance with this section; and
 - (b) make the plan described in Subsection (3)(a) available to the department and the committee for inspection.

Section 16. Section **26B-3-131** is amended to read:

**26B-3-131. Screening, Brief Intervention, and Referral to Treatment Medicaid
bursement.**

(1) As used in this section:

(a) "Controlled substance prescriber" means a controlled substance prescriber, as that term is defined in Section [58-37-6.5] 58-37-303, who:

(i) has a record of having completed SBIRT training, in accordance with Subsection [58-37-6.5(2)] 58-37-303(2), before providing the SBIRT services; and

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1692 (ii) is a Medicaid enrolled health care provider.

1693 (b) "SBIRT" means the same as that term is defined in Section [58-37-6.5] 58-37-303.

1694 (2) The department shall reimburse a controlled substance prescriber who provides SBIRT services to a Medicaid enrollee who is 13 years old or older for the SBIRT services.

1704 Section 17. Section **26B-4-201** is amended to read:

1705 **26B-4-201. Definitions.**

As used in this part:

1699 (1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

1701 (2) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, and adjudication.

1703 (3) "Advertise" means information provided by a person in any medium:

1704 (a) to the public; and

1705 (b) that is not age restricted to an individual who is at least 21 years old.

1706 (4) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

1708 (5) "Cannabis" means marijuana.

1709 (6) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

1711 (7) "Cannabis product" means a product that:

1712 (a) is intended for human use; and

1713 (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

1715 (8) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

1717 (9) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

1719 (10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

1721 (11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

1725 (12) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

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- 1727 (13) "Delivery address" means the same as that term is defined in Section 4-41a-102.
- 1728 (14) "Department" means the Department of Health and Human Services.
- 1729 (15) "Designated caregiver" means:
 - 1730 (a) an individual:
 - 1731 (i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and
 - 1733 (ii) who registers with the department under Section 26B-4-214; or
 - 1734 (b)
 - 1735 (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or
 - 1736 (ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).
- 1737 (16) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.
- 1739 (17) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.
- 1741 (18) "Government issued photo identification" means any of the following forms of identification:
 - 1743 (a) a valid state-issued driver license or identification card;
 - 1744 (b) a valid United States federal-issued photo identification, including:
 - 1745 (i) a United States passport;
 - 1746 (ii) a United States passport card;
 - 1747 (iii) a United States military identification card; or
 - 1748 (iv) a permanent resident card or alien registration receipt card; or
 - 1749 (c) a foreign passport.
- 1750 (19) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders.
- 1753 (20) "Inventory control system" means the system described in Section 4-41a-103.
- 1754 (21) "Legal dosage limit" means an amount that:
 - 1755 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or pharmacy medical provider, in accordance with Subsection 26B-4-231(5), recommends; and

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1758 (b) may not exceed:

1759 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

1760 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

1762 (22) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

1764 (a) that is 60 days after the date of purchase of the cannabis; and

1765 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

1767 (23) "Marijuana" means the same as that term is defined in Section [58-37-2] 58-37-101.

1768 (24) "Medical cannabis" or "medical cannabis product" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

1770 (25) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

1772 (26) "Medical cannabis cardholder" means:

1773 (a) a holder of a medical cannabis card; or

1774 (b) a facility or assigned employee, described in Subsection (15)(b), only:

1775 (i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

1778 (ii) while in possession of documentation that establishes:

1779 (A) a caregiver designation described in Subsection 26B-4-214(1)(b);

1780 (B) the identity of the individual presenting the documentation; and

1781 (C) the relation of the individual presenting the documentation to the caregiver designation.

1783 (27) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

1785 (a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

1787 (b) is connected to the electronic verification system.

1788 (28) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.

1790 (29)

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- (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale medical cannabis.
- (b) "Medical cannabis device" does not include a device that:
 - (i) facilitates cannabis combustion; or
 - (ii) an individual uses to ingest substances other than cannabis.
- (30) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
 - (a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and
 - (b) is connected to the electronic verification system.
- (31) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
 - (a) the department issues to an individual with a qualifying condition; and
 - (b) is connected to the electronic verification system.
- (32) "Medical cannabis pharmacy" means a person that:
 - (a)
 - (i) acquires or intends to acquire medical cannabis from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or
 - (ii) possesses medical cannabis or a medical cannabis device; and
 - (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.
- (33) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.
- (34) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.
- (35) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.
- (36) "Medical cannabis treatment" means medical cannabis or a medical cannabis device.
- (37)
 - (a) "Medicinal dosage form" means:
 - (i) for processed medical cannabis, the following with a specific and consistent cannabinoid content:
 - (A) a tablet;

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1822 (B) a capsule;

1823 (C) a concentrated liquid or viscous oil;

1824 (D) a liquid suspension that does not exceed 30 milliliters;

1825 (E) a topical preparation;

1826 (F) a transdermal preparation;

1827 (G) a sublingual preparation;

1828 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

1829 (I) a resin or wax;

1830 (J) an aerosol;

1831 (K) a suppository preparation; or

1832 (L) a soft or hard confection that is a uniform rectangular cuboid or uniform spherical shape, is
homogeneous in color and texture, and each piece is a single serving; or

1833 (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

1834 (A) contains cannabis flower in a quantity that varies by no more than 10% from the stated weight at the
time of packaging;

1835 (B) at any time the medical cannabis cardholder transports or possesses the container in public, is
contained within an opaque bag or box that the medical cannabis pharmacy provides; and

1836 (C) is labeled with the container's content and weight, the date of purchase, the legal use termination
date, and a barcode that provides information connected to an inventory control system.

1837 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

1838 (i) the medical cannabis cardholder has recently removed from the container described in Subsection
(37)(a)(ii) for use; and

1839 (ii) does not exceed the quantity described in Subsection (37)(a)(ii).

1840 (c) "Medicinal dosage form" does not include:

1841 (i) any unprocessed cannabis flower outside of the container described in Subsection (37)(a)(ii), except
as provided in Subsection (37)(b);

1842 (ii) any unprocessed cannabis flower in a container described in Subsection (37)(a)(ii) after the legal use
termination date;

1843 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or
other metal object that is heated by a flame, including a blowtorch;

1844 (iv) a liquid suspension that is branded as a beverage;

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1858 (v) a substance described in Subsection (37)(a)(i) or (ii) if the substance is not measured in grams,
milligrams, or milliliters; or

1860 (vi) a substance that contains or is covered to any degree with chocolate.

1861 (38) "Nonresident patient" means an individual who:

1862 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

1863 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the
laws of another state, district, territory, commonwealth, or insular possession of the United States;
and

1866 (c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

1867 (39) "Patient product information insert" means a single page document or webpage that contains
information about a medical cannabis product regarding:

1869 (a) how to use the product;

1870 (b) common side effects;

1871 (c) serious side effects;

1872 (d) dosage;

1873 (e) contraindications;

1874 (f) safe storage;

1875 (g) information on when a product should not be used; and

1876 (h) other information the department deems appropriate in consultation with the cannabis processing
facility that created the product.

1878 (40) "Pharmacy medical provider" means the medical provider required to be on site at a medical
cannabis pharmacy under Section 26B-4-219.

1880 (41) "Provisional patient card" means a card that:

1881 (a) the department issues to a minor with a qualifying condition for whom:

1882 (i) a recommending medical provider has recommended a medical cannabis treatment; and

1884 (ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

1886 (b) is connected to the electronic verification system.

1887 (42) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.

1889 (43) "Qualifying condition" means a condition described in Section 26B-4-203.

1890 (44) "Recommend" or "recommendation" means, for a recommending medical provider, the act of
suggesting the use of medical cannabis treatment, which:

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1892 (a) certifies the patient's eligibility for a medical cannabis card; and

1893 (b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

1895 (45) "Recommending medical provider" means an individual who:

1896 (a) meets the recommending qualifications;

1897 (b) completes four hours of continuing medical education specific to medical cannabis through formal or informal sources; and

1899 (c) every two years, provides an acknowledgment to the department that the individual completed four hours of continuing medical education.

1901 (46) "Recommending qualifications" means that an individual:

1902 (a)

1903 (i) has the authority to write a prescription;

1905 (ii) is licensed to prescribe a controlled substance under ~~[Title 58, Chapter 37, Utah Controlled Substances Act]~~ Title 58, Chapter 37, Controlled Substances; and

1907 (iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

1908 (b) is licensed as:

1909 (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1911 (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

1913 (iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1915 (iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

1918 (47) "State electronic verification system" means the system described in Section 26B-4-202.

1920 (48) "Targeted marketing" means the promotion by a recommending medical provider, medical clinic, or medical office that employs a recommending medical provider of a medical cannabis recommendation service using any of the following methods:

1922 (a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;

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(c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a recommending medical provider; or

1924 (d) a leaflet that a recommending medical provider, medical clinic, or medical office that employs a recommending medical provider shares with an individual who is at least 21 years old.

1927 (49) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection [58-37-4(2)(a)(iii)(AA)] 58-37-108(2)(a)(iii)(AA).

1930 (50) "THC analog" means the same as that term is defined in Section 4-41-102.

1939 Section 18. Section **26B-4-211** is amended to read:

26B-4-211. Analogous to prescribed controlled substances.

When an employee, officer, or agent of the state or a political subdivision makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the employee, officer, or agent may not consider the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance, if the individual's possession or use complies with:

1938 (1) this part;

1939 (2) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; or

1940 (3) Subsection [58-37-3.7(2)] 58-37-404(2) or (3).

1949 Section 19. Section **26B-4-212** is amended to read:

26B-4-212. Institutional review board -- Approved study of cannabis, a cannabinoid product, or an expanded cannabinoid product.

1944 (1) As used in this section:

1945 (a) "Approved study" means a medical research study:

1946 (i) the purpose of which is to investigate the medical benefits and risks of cannabinoid products; and

1948 (ii) that is approved by an IRB.

1949 (b) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6] 58-37-403.

1951 (c) "Cannabis" means the same as that term is defined in Section [58-37-3.6] 58-37-403.

1952 (d) "Expanded cannabinoid product" means the same as that term is defined in Section [58-37-3.6] 58-37-403.

1954 (e) "Institutional review board" or "IRB" means an institutional review board that is registered for human subject research by the United States Department of Health and Human Services.

1957 (2) A person conducting an approved study may, for the purposes of the study:

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1958 (a) process a cannabinoid product or an expanded cannabinoid product;

1959 (b) possess a cannabinoid product or an expanded cannabinoid product; and

1960 (c) administer a cannabinoid product, or an expanded cannabinoid product to an individual in accordance with the approved study.

1962 (3) A person conducting an approved study may:

1963 (a) import cannabis, a cannabinoid product, or an expanded cannabinoid product from another state if:

1965 (i) the importation complies with federal law; and

1966 (ii) the person uses the cannabis, cannabinoid product, or expanded cannabinoid product in accordance with the approved study; or

1968 (b) obtain cannabis, a cannabinoid product, or an expanded cannabinoid product from the National Institute on Drug Abuse.

1970 (4) A person conducting an approved study may distribute cannabis, a cannabinoid product, or an expanded cannabinoid product outside the state if:

1972 (a) the distribution complies with federal law; and

1973 (b) the distribution is for the purposes of, and in accordance with, the approved study.

1982 Section 20. Section **26B-4-216** is amended to read:

1983 **26B-4-216. Medical cannabis card -- Patient and designated caregiver requirements --**

Rebuttable presumption.

1977 (1)

1979 (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this part:

1980 (i) shall carry:

1981 (A) at all times the cardholder's medical cannabis card; and

1982 (B) with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system;

1984 (ii) may possess up to the legal dosage limit of:

1985 (A) unprocessed cannabis in medicinal dosage form; and

1986 (B) a cannabis product in medicinal dosage form;

1987 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);

1988

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- (iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and
- (v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).

(b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

- (i) for a first offense:
 - (A) guilty of an infraction; and
 - (B) subject to a fine of up to \$100; and
- (ii) for a second or subsequent offense:
 - (A) guilty of a class B misdemeanor; and
 - (B) subject to a fine of \$1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of ~~[Title 58, Chapter 37, Utah Controlled Substances Act]~~ Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

- (i) for a first offense:
 - (A) guilty of an infraction; and
 - (B) subject to a fine of up to \$100; and
- (ii) for a second or subsequent offense, is subject to the penalties described in ~~[Title 58, Chapter 37, Utah Controlled Substances Act]~~ Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

(f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in ~~[Title~~

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58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

2024 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-1-301.

2026 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.

2029 (c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

2034 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

2035 (i) for a first offense:

2036 (A) guilty of an infraction; and

2037 (B) subject to a fine of up to \$100; and

2038 (ii) for a second or subsequent offense:

2039 (A) guilty of a class B misdemeanor; and

2040 (B) subject to a fine of \$1,000.

2041 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

2044 (a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

2046 (b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

2049 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but

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the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

2057 (b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

2059 (i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

2062 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

2071 Section 21. Section **26B-4-220** is amended to read:

2072 **26B-4-220. Enforcement -- Misdemeanor.**

2065 (1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

2070 (2)

(a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

2072 (i) guilty of a class B misdemeanor; and

2073 (ii) subject to a \$1,000 fine.

2074 (b) An individual is not guilty under Subsection (2)(a) if the individual:

2075 (i)

(A) is a designated caregiver; and

2076 (B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

2078 (ii)

(A) is a medical cannabis guardian cardholder; and

2079 (B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

2081 (c) An individual who is guilty of a violation described in Subsection (2)(a) is not guilty of a violation of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled

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Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the conduct underlying the violation described in Subsection (2)(a).

2094 Section 22. Section **26B-4-501** is amended to read:

2095 **26B-4-501. Definitions.**

2089 As used in this part:

2091 (1) "Controlled substance" means the same as that term is defined in [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances.

2093 (2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2).

2094 (3) "Designated facility" means:

2095 (a) a freestanding urgent care center;

2096 (b) a general acute hospital; or

2097 (c) a critical access hospital.

2098 (4) "Dispense" means the same as that term is defined in Section 58-17b-102.

2099 (5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

2101 (6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

2103 (7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

2104 (8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

2106 (9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

2109 (10) "Health care provider" means:

2110 (a) a physician, as defined in Section 58-67-102;

2111 (b) an advanced practice registered nurse, as defined in Section 58-31b-102;

2112 (c) a physician assistant, as defined in Section 58-70a-102; or

2113 (d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

2115 (11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

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2117 (12) "Opiate" means the same as that term is defined in Section [58-37-2] 58-37-101.

2118 (13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

2121 (14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

2125 (15) "Overdose outreach provider" means:

2126 (a) a law enforcement agency;

2127 (b) a fire department;

2128 (c) an emergency medical service provider, as defined in Section 53-2d-101;

2129 (d) emergency medical service personnel, as defined in Section 53-2d-101;

2130 (e) an organization providing treatment or recovery services for drug or alcohol use;

2131 (f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

2133 (g) a certified peer support specialist, as defined in Section 26B-5-610;

2134 (h) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

2137 (i) an organization providing services to the homeless;

2138 (j) a local health department;

2139 (k) an individual licensed to practice under:

2140 (i) Title 58, Chapter 17b, Pharmacy Practice Act;

2141 (ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

2142 (iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or

2143 (l) an individual.

2144 (16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

2145 (17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

2146 (18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

2147 (19) "Physician" means the same as that term is defined in Section 58-67-102.

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2148 (20) "Practitioner" means:

2149 (a) a physician; or

2150 (b) any other person who is permitted by law to prescribe emergency contraception.

2151 (21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

2152 (22)

2153 (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

2154 (b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

2155 (c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

2156 (23)

2157 (a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

2158 (b) "Sexual assault" does not include criminal conduct described in:

2159 (i) Section 76-5-417, enticing a minor;

2160 (ii) Section 76-5-418, sexual battery;

2161 (iii) Section 76-5-419, lewdness; or

2162 (iv) Section 76-5-420, lewdness involving a child.

2163 (24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

2164 Section 23. Section **26B-4-513** is amended to read:

2165 **26B-4-513. Coprescription guidelines.**

2166 (1) As used in this section:

2167 (a) "Controlled substance prescriber" means the same as that term is defined in Section [58-37-6.5] 58-37-303.

2168 (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a prescription for an opiate.

2169 (2) The department shall, in consultation with the Medical Licensing Board created in Section 58-67-201, and the Division of Professional Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

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scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient.

2188 Section 24. Section **29-2-102** is amended to read:

2189 **29-2-102. Definitions.**

2183 As used in this chapter:

2184 (1) "Alcoholic beverage" has the same meaning as provided in Section 32B-1-102.

2185 (2) "Controlled substance" has the same meaning as provided in Section [58-37-2] **58-37-101**.

2187 (3) "Guest" means a person for whom an innkeeper was paid to provide temporary sleeping accommodations in a lodging establishment.

2189 (4) "Innkeeper" means the proprietor or designated employee of a proprietor of a lodging establishment.

2191 (5) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

2192 (a) a bed and breakfast establishment;

2193 (b) a boarding house;

2194 (c) a hotel;

2195 (d) an inn;

2196 (e) a lodging house;

2197 (f) a motel;

2198 (g) a resort; or

2199 (h) a rooming house.

2200 (6) "Minor" means an unemancipated person younger than 18 years [of age] **old**.

2201 Section 25. Section **32B-3-303** is amended to read:

2202 **32B-3-303. Acts making a person subject to this part.**

2203 (1) One or more of the following acts constitute a nuisance activity:

2204 (a) a single felony conviction within the last two years of:

2205 (i) a retail licensee; or

2206 (ii) supervisory or managerial level staff of the retail licensee;

2207 (b) a single conviction [under {f} Title 58, Chapter 37, Utah Controlled Substances Act] **for an offense described in Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or an offense described in a statute previously in effect in this state that is the same or substantially the same as a conviction for an offense described in Title 58,**

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Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances:

2209 (i) (A) of a retail licensee; or
2210 (B) of staff of the retail licensee;
2211 (ii) within the last two years; and
2212 (iii) made on the basis of an act that occurs on the licensed premises;
2213 (c) three or more convictions of patrons of a retail licensee [under {f} Title 58, Chapter 37, Utah Controlled Substances Act] for an offense described in Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or an offense described in a statute previously in effect in this state that is the same or substantially the same as a conviction for an offense described in Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, if:
2216 (i) the convictions are made on the basis of an act that occurs on the licensed premises; and
2218 (ii) there is evidence that the retail licensee knew or should have known of the illegal activity;
2220 (d) a single conviction within the last two years of a retail licensee or staff of the retail licensee that is made on the basis of:
2222 (i) pornographic and harmful materials:
2223 (A) that violate Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances; and
2225 (B) if the violation occurs on the licensed premises;
2226 (ii) prostitution;
2227 (iii) engaging in or permitting gambling, as defined and proscribed in Title 76, Chapter 9, Part 14, Gambling, on the licensed premises;
2229 (iv) having any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-9-1401 on the licensed premises;
2231 (v) on the licensed premises engaging in or permitting a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value;
2236 (vi) a disturbance of the peace that occurs on the licensed premises; or
2237 (vii) disorderly conduct that occurs on the licensed premises; or

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2238 (e) three or more adjudicated violations of this title within the last two years by a retail licensee or
by staff of the retail licensee that result in a criminal citation or an administrative referral to the
department relating to:

2241 (i) the sale, offer for sale, or furnishing of an alcoholic product to a minor;

2242 (ii) the sale, offer for sale, or furnishing of an alcoholic product to a person actually, apparently, or
obviously intoxicated;

2244 (iii) the sale, offer for sale, or furnishing of an alcoholic product after the lawful hours for the sale or
furnishing; or

2246 (iv) acts or conduct on the licensed premises contrary to the public welfare and morals involving lewd
acts or lewd entertainment prohibited by this title.

2248 (2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership, corporation, or
limited liability company, a conviction under Subsection (1)(c) includes a conviction of any of the
following for an offense described in Subsection (1)(c):

2251 (a) a partner;

2252 (b) a managing agent;

2253 (c) a manager;

2254 (d) an officer;

2255 (e) a director;

2256 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporate retail
licensee; or

2258 (g) a member who owns at least 20% of a limited liability company retail licensee.

2275 Section 26. Section **32B-5-301** is amended to read:

2276 **32B-5-301. General operational requirements.**

2261 (1)

2262 (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the
commission, including the relevant chapter or part for the specific type of retail license.

2264 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance
with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2266 (i) a retail licensee;

2267 (ii) individual staff of a retail licensee; or

2268 (iii) both a retail licensee and staff of the retail licensee.

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2269 (2)

- (a) If there is a conflict between this part and the relevant chapter or part for the specific type of retail license, the relevant chapter or part for the specific type of retail license governs.
- (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant chapter or part for the retail licensee's specific type of retail license.
- (c) Notwithstanding that this part or the relevant chapter or part for a specific retail licensee refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

2279 (3)

- (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.
- (b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:
 - (i) a header that reads: "WARNING";
 - (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.>";
 - (iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";
 - (iv) a header that reads: "WARNING"; and
 - (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

2292 (c)

- (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).
- (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.
- (d) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

2298 (4) A retail licensee may not on the licensed premises:

- (a) engage in or permit any form of gambling, as defined in Section 76-9-1401, or fringe gambling, as defined in Section 76-9-1401;

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- (b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-9-1401; or
- (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

2303 (5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of [Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Part 3, Offenses Concerning Drug Paraphernalia:

- (a) sell, distribute, possess, or use a controlled substance, as defined in Section [58-37-2] 58-37-101; or
- (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section [58-37a-3] 76-18-301.

2313 (6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

- (a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and
- (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:
 - (i) the entire premises of the retail licensee; and
 - (ii) the records of the retail licensee.

2325 (7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

- (a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and
- (b) ending at the time specified in the relevant chapter or part for the retail licensee's specific type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

2333 (8) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

2335 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

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2337 (a) related to the requirement described in Subsection (8); and

2338 (b) for dispensing systems and dispensing areas of restaurant licensees, bar licensees, and taverns,
establishing standards:

2340 (i) in accordance with the provisions of this title; and

2341 (ii) prohibiting a dispensing system to remain at a patron's table.

2342 Section 27. Section **32B-6-406.1** is amended to read:

2343 **32B-6-406.1. Specific operational restrictions related to dance or concert hall.**

2344 (1) A minor who is at least 18 years [of age] old may be admitted into, use, or be on the premises of a
dance or concert hall if:

2345 (a) the dance or concert hall is located:

2346 (i) on the licensed premises of a bar licensee; or

2347 (ii) on the property that immediately adjoins the licensed premises of and is operated by a bar licensee;
and

2348 (b) the bar licensee holds a permit to operate a dance or concert hall that was issued on or before May
11, 2009:

2349 (i) on the basis of the operational requirements described in Subsection (2); and

2350 (ii) when the bar licensee was licensed as a class D private club.

2351 (2) A bar licensee that holds a dance or concert hall permit shall operate in such a way that:

2352 (a) the bar licensee's lounge, dispensing structure, or other area for alcoholic product consumption is:

2353 (i) not accessible to a minor;

2354 (ii) clearly defined; and

2355 (iii) separated from the dance or concert hall area by one or more walls, multiple floor levels, or other
substantial physical barriers;

2356 (b) a dispensing structure or area where alcoholic product is dispensed is not visible to a minor;

2357 (c) consumption of an alcoholic product may not occur in:

2358 (i) the dance or concert hall area; or

2359 (ii) an area of the bar licensee premises accessible to a minor;

2360 (d) the bar licensee maintains sufficient security personnel to prevent the passing of beverages from the
bar licensee's lounge, dispensing structure, or other area for alcoholic product consumption to:

2361 (i) the dance or concert hall area; or

2362 (ii) an area of the bar licensee premises accessible to a minor;

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2372 (e) there are one or more separate entrances, exits, and restroom facilities from the bar licensee's
lounge, dispensing structure, or other area for alcoholic product consumption than for:

2375 (i) the dance or concert hall area; or

2376 (ii) an area accessible to a minor; and

2377 (f) the bar licensee complies with any other requirements imposed by the commission by rule.

2379 (3)

2380 (a) A minor under 18 years [of age] old who is accompanied at all times by a parent or legal guardian
may be admitted into, use, or be on the premises of a concert hall described in Subsection (1) if:

2382 (i) the requirements of Subsection (2) are met; and

2383 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic product is
not visible to the minor.

2385 (b) A minor under 18 years [of age] old but who is 14 years [of age] old or older who is not
accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a
concert hall described in Subsection (1) if:

2388 (i) the requirements of Subsections (2) and (3)(a) are met; and

2389 (ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of the bar licensee.

2391 (4) The commission may suspend or revoke a dance or concert permit issued to a bar licensee and
suspend or revoke the license of the bar licensee if:

2393 (a) the bar licensee fails to comply with the requirements in this section;

2394 (b) the bar licensee sells, offers for sale, or furnishes an alcoholic product to a minor;

2395 (c) the bar licensee or a supervisory or managerial level staff of the bar licensee is convicted [under
~~{f} Title 58, Chapter 37, Utah Controlled Substances Act] of an offense described in Title 58,~~
~~Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled~~
~~Substances, or an offense described in a statute previously in effect in this state that is the same or~~
~~substantially the same as a conviction for an offense described in~~ Title 58, Chapter 37, Controlled
Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, on the
basis of an activity that occurs on:

2399 (i) the licensed premises; or

2400 (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises
of and is operated by the bar licensee;

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(d) there are three or more convictions of patrons of the bar licensee ~~under {f}~~ Title 58, Chapter 37, Utah Controlled Substances Act] for an offense described in Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or an offense described in a statute previously in effect in this state that is the same or substantially the same as a conviction for an offense described in Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, on the basis of activities that occur on:

2406 (i) the licensed premises; or

2407 (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the bar licensee;

2409 (iii) there is more than one conviction:

2410 (A) of:

2411 (I) the bar licensee;

2412 (II) staff of the bar licensee;

2413 (III) an entertainer contracted by the bar licensee; or

2414 (IV) a patron of the bar licensee; and

2415 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that occurs on:

2417 (I) the licensed premises; or

2418 (II) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the bar licensee; or

2420 (e) the commission finds acts or conduct contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title that occurs on:

2422 (i) the licensed premises; or

2423 (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the bar licensee.

2425 (5) Nothing in this section prohibits a bar licensee from selling, offering for sale, or furnishing an alcoholic product in a dance or concert area located on the bar licensed premises on days and times when the bar licensee does not allow a minor into those areas.

2453 Section 28. Section **32B-7-202** is amended to read:

2454 **32B-7-202. General operational requirements for off-premise beer retailer.**

2432

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(1) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(2) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(3)

(a)

(i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b)

(i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(4) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(5)

(a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years old or older who is on the licensed premises; and

(ii) the minor is at least 16 years old.

(6) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

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2463 (b) a person actually, apparently, or obviously intoxicated;

2464 (c) a known interdicted person; or

2465 (d) a known habitual drunkard.

2466 (7)

2467 (a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

2468 (i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

2469 (A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

2470 (B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

2471 (ii) display a sign in the area described in Subsection (6)(a)(i) that:

2472 (A) is prominent;

2473 (B) is easily readable by a consumer;

2474 (C) meets the requirements for format established by the commission by rule; and

2475 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

2476 (b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

2477 (c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

2478 (i) a malt cooler; or

2479 (ii) a beverage that may provide energy.

2480 (d) A violation of this Subsection (6) is an infraction.

2481 (e)

2482 (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

2483 (ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

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2493 (8)

2494 (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to
2495 a patron for consumption off the premises of the off-premise beer retailer shall wear a unique
2496 identification badge:
2497 (i) on the front of the staff's clothing;
2498 (ii) visible above the waist;
2499 (iii) bearing the staff's:
2500 (A) first or last name;
2501 (B) initials; or
2502 (C) unique identification in letters or numbers; and
2503 (iv) with the number or letters on the unique identification badge being sufficiently large to be
2504 clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

2505 (b) An off-premise beer retailer shall make and maintain a record of each current staff's unique
2506 identification badge assigned by the off-premise beer retailer that includes the staff's:
2507 (i) full name;
2508 (ii) address; and
2509 (iii)
2510 (A) driver license number; or
2511 (B) similar identification number.

2512 (c) An off-premise beer retailer shall make available a record required to be made or maintained under
2513 this Subsection (7) for immediate inspection by:
2514 (i) a peace officer;
2515 (ii) a representative of the local authority that issues the off-premise beer retailer license; or
2516 (iii) for an off-premise beer retailer state license, a representative of the commission or department.

2517 (d) A local authority may impose a fine of up to \$250 against an off-premise beer retailer that does not
2518 comply or require its staff to comply with this Subsection (7).

2519 (9)

2520 (a) An off-premise beer retailer may sell, offer for sale, or furnish beer:
2521 (i) at a drive-through window;
2522 (ii) at a drive-up loading area, if the drive-up loading area is contiguous to the off-premise beer
2523 retailer's licensed premises; or

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Paraphernalia Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Part 3, Offenses Concerning Drug Paraphernalia:

2564 (a) sell, distribute, possess, or use a controlled substance, as defined in Section [58-37-2] 58-37-101; or
2566 (b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section
[58-37a-3] 76-18-301.

2568 (12) An off-premise beer retailer may not sell, offer for sale, or furnish a beer that is intended to be frozen and consumed in a manner other than as a beverage, including beer in the form of a freeze pop, popsicle, ice cream, or sorbet.

2595 Section 29. Section **32B-9-204** is amended to read:

32B-9-204. General operational requirements for an event permit.

2574 (1)

2577 (a) An event permittee and a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at an event for which an event permit is issued, shall comply with this title and rules of the commission.

2578 (b) Failure to comply as provided in Subsection (1)(a):

2579 (i) may result in:

2581 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2582 (I) an event permittee;

2584 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event; or

2585 (III) any combination of the persons listed in this Subsection (1)(b);

2586 (B) immediate revocation of the event permit;

2587 (C) forfeiture of a bond; or

2588 (D) immediate seizure of an alcoholic product present at the event; and

2591 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an event permit for a period of three years from the date of revocation of the event permit.

2594 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

2594 (2)

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- (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit held by the special use permittee, the relevant part governs.
- 2597 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the relevant part under this chapter for the type of event permit that is held by the event permittee.
- 2601 (c) Notwithstanding that this part or the relevant part under this chapter for the type of event permit held by an event permittee refers to "event permittee," a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the event permit is issued is subject to the same requirement or prohibition.
- 2605 (3) An event permittee shall display a copy of the event permit in a prominent place in the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.
- 2607 (4) An event permittee may not on the premises of the event:
 - (a) engage in or allow any form of gambling, as defined in Section 76-9-1401, or fringe gambling, as defined in Section 76-9-1401;
 - 2610 (b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-9-1401; or
 - 2612 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.
- 2617 (5) An event permittee may not knowingly allow a person at an event to, in violation of [Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Part 3, Offenses Concerning Drug Paraphernalia:
 - 2622 (a) sell, distribute, possess, or use a controlled substance, as defined in Section [58-37-2] 58-37-101; or
 - 2624 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section [58-37a-3] 76-18-301.
- 2626 (6) An event permittee may not sell, offer for sale, or furnish beer except beer purchases from:
 - 2628 (a) a beer wholesaler licensee;
 - 2629 (b) a beer retailer; or
 - 2630 (c) a small brewer.

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2631 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the consumption of an
alcoholic product purchased for an event in a location other than that described in the application
and designated on the event permit unless the event permittee first applies for and receives approval
from the director, with the approval of the Compliance, Licensing, and Enforcement Subcommittee,
for a change of location.

2636 (8)
(a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or furnish beer for on-
premise consumption:
2638 (i) in an open original container; and
2639 (ii) in a container on draft.

2640 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to Subsection (8)(a):
2642 (i) in a size of container that exceeds two liters; or
2643 (ii) to an individual patron in a size of container that exceeds one liter.

2644 (9)
(a) An event permittee may not sell or offer for sale an alcoholic product at less than the cost of the
alcoholic product to the event permittee.
2646 (b) An event permittee may not sell an alcoholic product at a discount price on any date or at any time.
2648 (c) An event permittee may not sell or offer for sale an alcoholic product at a price that encourages
overconsumption or intoxication.
2650 (d) An event permittee may not sell or offer for sale an alcoholic product at a special or reduced price
for only certain hours of the day of an event.
2652 (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic product at the
price of a single alcoholic product.
2654 (f) An event permittee, or a person operating, selling, offering, or furnishing an alcoholic product
under an event permit, may not sell, offer for sale, or furnish an indefinite or unlimited number of
alcoholic products during a set period for a fixed price, unless:
2657 (i) the alcoholic product is served to a patron at a seated event;
2658 (ii) food is available whenever the alcoholic product is sold, offered for sale, or furnished; and
2660 (iii) no person advertises that at the event a person may be sold or furnished an indefinite or unlimited
number of alcoholic products during a set period for a fixed price.

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(g) An event permittee may not engage in a public promotion involving or offering a free alcoholic product to the general public.

2665 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

2666 (a) a minor;

2667 (b) a person actually, apparently, or obviously intoxicated;

2668 (c) a known interdicted person; or

2669 (d) a known habitual drunkard.

2670 (11)

2671 (a) An alcoholic product is considered under the control of the event permittee during an event.

2672 (b) A patron at an event may not bring an alcoholic product onto the premises of the event.

2673 (12) An event permittee may not permit a patron to carry from the premises an open container that:

2674 (a) is used primarily for drinking purposes; and

2675 (b) contains an alcoholic product.

2676 (13)

2677 (a) A person involved in the storage, sale, or furnishing of an alcoholic product at an event is considered under the supervision and direction of the event permittee.

2678 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at an event may not, while on duty:

2680 (i) consume an alcoholic product; or

2681 (ii) be intoxicated.

2682 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an event.

2683 (15) The location specified in an event permit may not be changed without prior written approval of the commission.

2684 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the event permit to another person whether for monetary gain or not.

2685 (17)

2686 (a) An event permittee may not sell, offer for sale, furnish, or allow the consumption of an alcoholic product during a period that:

2687 (i) begins at 1 a.m.; and

2688 (ii) ends at 9:59 a.m.

2689

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(b) This Subsection (17) does not preclude a local authority from being more restrictive with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic product at an event.

2697 (18) A patron may have no more than one alcoholic product of any kind at a time before the patron.

2699 (19)

2701 (a) An event permittee shall display, in a prominent place, a sign in large letters that consists of text in the following order:

2702 (i) a header that reads: "WARNING";

2703 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

2704 (iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";

2707 (iv) a header that reads: "WARNING"; and

2708 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

2710 (b)

2711 (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (19)(a)(iv) and (v).

2712 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the same font size.

2714 (c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

2740 Section 30. Section **32B-10-404** is amended to read:

2741 **32B-10-404. Specific operational requirements for industrial or manufacturing use permit.**

2719 (1)

2720 (a) In addition to complying with Section 32B-10-206, an industrial or manufacturing use permittee and staff of the industrial or manufacturing use permittee shall comply with this section.

2722 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2724 (i) an industrial or manufacturing use permittee;

2725 (ii) individual staff of an industrial or manufacturing use permittee; or

2726 (iii) an industrial or manufacturing use permittee and staff of the industrial or manufacturing use permittee.

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2728 (2) An industrial or manufacturing use permittee may produce for lawful use and sale the following:

2730 (a) vinegar;

2731 (b) preserved nonintoxicating cider;

2732 (c) a food preparation;

2733 (d) a United States Pharmacopoeia or national formulary preparation in conformity with Title 58,
Chapter 17b, Pharmacy Practice Act, [Chapter 37, Utah Controlled Substances Act, Chapter 37a,
Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, and Chapter
37e, Utah Controlled Substance Precursor Act] Title 58, Chapter 37, Controlled Substances, Title
58, Chapter 37c, Controlled Substance Precursors, and Title 76, Chapter 18, Part 2, Offenses
Concerning Controlled Substances, Part 3, Offenses Concerning Drug Paraphernalia, and Part 4,
Offenses Concerning Imitation Controlled Substances, if the preparation:

2741 (i) conforms to standards established by:

2742 (A) the Department of Agriculture and Food; and

2743 (B) the Department of Health and Human Services; and

2744 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal, flavoring, or
perfumed properties of the treated substances; and

2746 (e) wood and denatured alcohol if manufactured in compliance with the formulas and regulations under
Title 27, C.F.R. Parts 19, 20, and 21.

2748 (3)

2749 (a) An industrial or manufacturing use permittee that produces patent or proprietary medicines
containing alcohol may sell or offer for sale the medicines in the original and unbroken container if
the medicine contains sufficient medication to prevent its use as an alcoholic product.

2752 (b) An industrial or manufacturing use permittee described in this Subsection (3) shall, upon request
by the department, provide a sufficient sample of the medicine to enable the department to have the
medicine analyzed for purposes of this section.

2779 Section 31. Section **34-41-101** is amended to read:

2780 **34-41-101. Definitions.**

2781 As used in this chapter:

2782 (1) "Donor" means an employee, a volunteer, a prospective employee, or a prospective volunteer of a
local government entity or an institution of higher education.

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(2) "Drug" means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia, including [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or supplement to any of those compendia.

2764 (3) "Drug testing" means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this chapter.

2767 (4) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

2769 (5) "Local governmental employee" means any person or officer in the service of a local governmental entity or institution of higher education for compensation.

2771 (6)

(a) "Local governmental entity" means any political subdivision of Utah including any county, municipality, local school district, special district, special service district, or any administrative subdivision of those entities.

2774 (b) "Local governmental entity" does not mean Utah state government or its administrative subdivisions provided for in Sections 63A-17-1001 through 63A-17-1006.

2777 (7) "Periodic testing" means preselected and preannounced drug testing of employees or volunteers conducted on a regular schedule.

2779 (8) "Prospective employee" means any person who has made a written or oral application to become an employee of a local governmental entity or an institution of higher education.

2781 (9) "Random testing" means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.

2784 (10) "Reasonable suspicion for drug testing" means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

2787 (11) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

2790 (12) "Safety sensitive position" means any local governmental or institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in [Title 58, Chapter

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37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, during the course of performing job duties.

2795 (13) "Sample" means urine, blood, breath, saliva, or hair.

2796 (14) "Volunteer" means any person who donates services as authorized by the local governmental entity or institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

2823 Section 32. Section **34A-2-302** is amended to read:

34A-2-302. Employee's willful misconduct -- Penalty.

2801 (1) For purposes of this section:

2802 (a) "Controlled substance" [is as] means the same as that term is defined in Section [58-37-2] 58-37-101.

2804 (b) "Local government employee" [is as] means the same as that term is defined in Section 34-41-101.

2806 (c) "Local governmental entity" [is as] means the same as that term is defined in Section 34-41-101.

2808 (d) "State institution of higher education" [is as] means the same as that term is defined in Section 34-41-101.

2810 (e) "Valid prescription" is a prescription, as defined in Section [58-37-2] 58-37-101, that:

2811 (i) is prescribed for a controlled substance for use by the employee for whom it was prescribed; and
2813 (ii) has not been altered or forged.

2814 (2) An employee may not:

2815 (a) remove, displace, damage, destroy, or carry away any safety device or safeguard provided for use in any employment or place of employment;

2817 (b) interfere in any way with the use of a safety device or safeguard described in Subsection (2)(a) by any other person;

2819 (c) interfere with the use of any method or process adopted for the protection of any employee in the employer's employment or place of employment; or

2821 (d) fail or neglect to follow and obey orders and to do every other thing reasonably necessary to protect the life, health, and safety of employees.

2823 (3) Except in case of injury resulting in death:

2824 (a) compensation provided for by this chapter shall be reduced 15% when injury is caused by the willful failure of the employee:

2826 (i) to use safety devices when provided by the employer; or

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2827 (ii) to obey any order or reasonable rule adopted by the employer for the safety of the employee; and

2829 (b) except when the employer permitted, encouraged, or had actual knowledge of the conduct described
in Subsection (4):

2831 (i) disability compensation may not be awarded under this chapter or Chapter 3, Utah Occupational
Disease Act, to an employee when the major contributing cause of the employee's injury is the
employee's conduct described in Subsection (4); or

2834 (ii) disability compensation to an employee under this chapter or Chapter 3, Utah Occupational Disease
Act, shall be reduced by 15% when the employee's conduct is a contributing cause of the employee's
injury but not the major contributing cause.

2838 (4) The conduct described in Subsection (3)(b) is the employee's:

2839 (a) knowing use of a controlled substance that the employee did not obtain under a valid prescription;

2841 (b) intentional abuse of a controlled substance that the employee obtained under a valid prescription if
the employee uses the controlled substance intentionally:

2843 (i) in excess of prescribed therapeutic amounts; or

2844 (ii) in an otherwise abusive manner; or

2845 (c) intoxication from alcohol with a blood or breath alcohol concentration of .05 grams or greater as
shown by a chemical test.

2847 (5)

2848 (a) For purposes of Subsections (3) and (4), as shown by a chemical test that conforms to scientifically
accepted analytical methods and procedures and includes verification or confirmation of any
positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other
comparably reliable analytical method, before the result of the test may be used as a basis for
the presumption, it is presumed that the major contributing cause of the employee's injury is the
employee's conduct described in Subsection (4) if at the time of the injury:

2854 (i) the employee has in the employee's system:

2855 (A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled
substance under a valid prescription; or

2857 (B) a controlled substance the employee obtained under a valid prescription or the metabolites of the
controlled substance if the amount in the employee's system is consistent with the employee using
the controlled substance intentionally:

2860 (I) in excess of prescribed therapeutic amounts; or

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2861 (II) in an otherwise abusive manner; or

2862 (ii) the employee has a blood or breath alcohol concentration of .05 grams or greater.

2863 (b) The presumption created under Subsection (5)(a) may be rebutted by a preponderance of the evidence showing that:

2865 (i) the chemical test creating the presumption is inaccurate because the employer failed to comply with:

2867 (A) Sections 34-38-4 through 34-38-6; or

2868 (B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104, Subsection 34-41-103(7), or, if applicable, Subsection 34-41-103(6);

2871 (ii) the employee did not engage in the conduct described in Subsection (4);

2872 (iii) the test results do not exclude the possibility of passive inhalation of marijuana because the concentration of total urinary cannabinoids is less than 50 nanograms/ml as determined by a test conducted in accordance with:

2875 (A) Sections 34-38-4 through 34-38-6; or

2876 (B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104, Subsection 34-41-103(7), or, if applicable, Subsection 34-41-103(6);

2879 (iv) a competent medical opinion from a physician verifies that the amount of controlled substances, metabolites, or alcohol in the employee's system does not support a finding that the conduct described in Subsection (4) was the major contributing cause of the employee's injury or a contributing cause of the employee's injury; or

2884 (v)

2886 (A) the conduct described in Subsection (4) was not a contributing cause of the employee's injury; or

2888 (B) the employee's mental and physical condition were not impaired at the time of the injury.

2888 (c)

2891 (i) Except as provided in Subsections (5)(c)(ii) and (iii), if a chemical test that creates the presumption under Subsection (5)(a) is taken at the request of the employer, the employer shall comply with:

2892 (A) Title 34, Chapter 38, Drug and Alcohol Testing; or

2892 (B) if the employee is a local governmental employee or an employee of a state institution of higher education, Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies.

2895 (ii) Notwithstanding Section 34-38-13, the results of a test taken under Title 34, Chapter 38, Drug and Alcohol Testing, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection (5)(a).

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2898 (iii) Notwithstanding Section 34-41-103, the results of a test taken under Title 34, Chapter 41, Local
2899 Governmental Entity Drug-Free Workplace Policies, may be disclosed to the extent necessary to
2900 establish or rebut the presumption created under Subsection (5)(a).

2902 (6)
2903 (a) A test sample taken pursuant to this section shall be taken as a split sample.
2904 (b) One part of the sample is to be used by the employer for testing pursuant to Subsection (5)(a):
2905 (i) at a testing facility selected by the employer; and
2906 (ii) at the employer's or the employer's workers' compensation carrier's expense.
2907 (c) The testing facility selected under Subsection (6)(b) shall hold the part of the sample not used under
2908 Subsection (6)(b) until the sooner of:
2909 (i) six months from the date of the original test; or
2910 (ii) when the employee requests that the sample be tested.
2911 (d) The employee has only six months from the date of the original test to have the remaining sample
2912 tested:
2913 (i) at the employee's expense; and
2914 (ii) at the testing facility selected by the employee, except that the test shall meet the requirements of
2915 Subsection (5)(a).

2916 (7) If any provision of this section, or the application of any provision of this section to any person or
2917 circumstance, is held invalid, the remainder of this section shall be given effect without the invalid
2918 provision or application.

2943 Section 33. Section **34A-2-410.5** is amended to read:

2944 **34A-2-410.5. Employee cooperation with reemployment.**

2921 (1) As used in this section:
2922 (a) "Controlled substance" is as defined in Section ~~58-37-2~~ 58-37-101.
2923 (b) "Correctional facility" means:
2924 (i) a correctional facility as defined in Section 76-8-311.3; or
2925 (ii) a facility operated by or contracting with the federal government to house a criminal offender in
2926 either a secure or nonsecure setting.
2927 (c) "Disability claim" means a claim for compensation for:
2928 (i) a temporary total disability benefit; or
2929 (ii) a temporary partial disability benefit.

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2930 (d) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

2932 (e) "Local governmental entity" is as defined in Section 34-41-101.

2933 (f) "Reemployment" means employment that:

2934 (i) is after an accident or occupational disease that is the basis for a disability claim; and

2936 (ii) in a manner consistent with Subsection (2)(a), offers to an employee an opportunity for earnings,
considering the employee's:

2938 (A) education;

2939 (B) experience; and

2940 (C) physical and mental impairment or condition.

2941 (g) "Valid prescription" is a prescription, as defined in Section [58-37-2] 58-37-101, that is:

2943 (i) prescribed for a controlled substance for use by the employee for whom it is prescribed; and

2945 (ii) not altered or forged.

2946 (2) In accordance with this section, the commission may reduce or terminate an employee's disability
compensation for a disability claim for good cause shown by the employer including if:

2949 (a) the employer terminates the employee from the reemployment and the termination is:

2950 (i) reasonable;

2951 (ii) for cause; and

2952 (iii) as a result, in whole or in part, of:

2953 (A) criminal conduct;

2954 (B) violent conduct; or

2955 (C) a violation of a reasonable, written workplace health, safety, licensure, or nondiscrimination rule
that is applied in a manner that is reasonable and nondiscriminatory;

2958 (b) the employee is incarcerated in a correctional facility for a period of time that would result in the
termination of the employee's reemployment in accordance with a reasonable, written workplace
rule that is applied in a manner that is reasonable and nondiscriminatory; or

2962 (c) subject to Subsection (6), the employee is terminated from the reemployment:

2963 (i)

2965 (A) for use of a controlled substance that the employee did not obtain under a valid prescription;

2965 (B) for intentional abuse of a controlled substance that the employee obtained under a valid
prescription, if the employee uses the controlled substance intentionally:

2968 (I) in excess of a prescribed therapeutic amount; or

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2969 (II) in an otherwise abusive manner; or

2970 (C) for the use of alcohol that results in intoxication from alcohol with a blood or breath alcohol concentration of .05 grams or greater; and

2972 (ii) in accordance with a reasonable, written workplace rule that is applied in a manner that is reasonable and nondiscriminatory.

2974 (3) Notwithstanding the other provisions of this section, the employee described in Subsection (2) is eligible for medical benefits to the extent otherwise allowed under this title.

2977 (4)

(a) An employer or the employer's insurance carrier may file an application for a hearing with the Division of Adjudication to request that an employee's disability compensation for a disability claim be reduced or terminated under this section.

2980 (b) An action under this Subsection (4) is barred if an application for a hearing is not filed within one year from the day on which the employer terminates the employee from reemployment as described in Subsection (2).

2983 (c) An employer or the employer's insurance carrier shall notify the employee that the employer or employer's insurance carrier has filed a request for a hearing under this section within three business days of the day on which the filing is made.

2986 (5)

(a) The commission may reduce or terminate the disability compensation of an employee for a disability claim if after a hearing requested under Subsection (4), the commission determines that the conditions of Subsection (2) are met.

2989 (b) The commission shall issue an order as to whether or not an employee's disability compensation is reduced or terminated under this section by no later than 45 days from the day on which an application for a hearing is filed.

2992 (c) A reduction or termination of disability compensation under this Subsection (5) takes effect on the day determined by the commission.

2994 (d) If the disability compensation is ordered terminated or reduced, the employer or employer's insurance carrier shall treat a resulting overpayment as an offset against the employer's or employer's insurance carrier's future obligations to pay disability compensation to the employee.

2998 (6)

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(a) For purposes of Subsection (2)(c), the commission may consider a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method showing that the employee has:

3003 (i) in the employee's system during employment:

3004 (A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

3006 (B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

3009 (I) in excess of prescribed therapeutic amounts; or

3010 (II) in an otherwise abusive manner; or

3011 (ii) a blood or breath alcohol concentration of .05 grams or greater during employment.

3013 (b) A local governmental entity or an institution of higher education shall comply with Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, in engaging in a test for a controlled substance that is the basis of a presumption under this section.

3017 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

3019 (a) describing factors to be considered under Subsection (2); and

3020 (b) related to the procedures for a request for a hearing under this section.

3021 (8) The adjudication of a dispute arising under this section is governed by Part 8, Adjudication.

3023 (9) An issue related to an employee's cooperation with regard to a claim for compensation for permanent total disability benefits is governed by Section 34A-2-413.

3049 Section 34. Section **35A-3-311** is amended to read:

3050 **35A-3-311. Cash assistance to noncitizen legal residents and drug dependent persons.**

3028 (1) If barred from using federal funds under federal law, the department may provide cash assistance to a legal resident who is not a citizen of the United States using funds appropriated from the General Fund.

3031 (2)

3031 (a) The State exercises the opt out provision in Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

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- (b) Consistent with Subsection (2)(a), the department may provide cash assistance and SNAP benefits to a person who has been convicted of a felony involving a controlled substance, as defined in Section [58-37-2] 58-37-101.
- (c) As a condition for receiving cash assistance under this part, a drug dependant person, as defined in Section [58-37-2] 58-37-101, shall:
 - (i) receive available treatment for the dependency; and
 - (ii) make progress toward overcoming the dependency.
- (d) The department may only refer a recipient who is a drug dependent person to a treatment provider for treating drug dependency if the provider has achieved an objective level of success, as defined by department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 35. Section **41-6a-501** is amended to read:

41-6a-501. Definitions.

- (1) As used in this part:
 - (a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:
 - (i) the person is asleep inside the vehicle;
 - (ii) the person is not in the driver's seat of the vehicle;
 - (iii) the engine of the vehicle is not running;
 - (iv) the vehicle is lawfully parked; and
 - (v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.
 - (b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:
 - (i) used to determine if a person is in need of:
 - (A) substance abuse treatment that is obtained at a substance abuse program;
 - (B) an educational series; or
 - (C) a combination of Subsections (1)(b)(i)(A) and (B); and
 - (ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.
 - (c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Judicial Council according to standards established by the Judicial Council.
 - (d) "Drug" or "drugs" means:

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3069 (i) a controlled substance as defined in Section [58-37-2] 58-37-101;

3070 (ii) a drug as defined in Section 58-17b-102; or

3071 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can
impair the ability of a person to safely operate a motor vehicle.

3073 (e) "Educational series" means an educational series obtained at a substance abuse program that is
approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

3076 (f) "Extreme DUI" means an offense of driving under the influence under Section 41-1a-502 where
there is admissible evidence that the individual:

3078 (i) had a blood or breath alcohol level of .16 or higher;

3079 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled
substance; or

3081 (iii) had a combination of two or more controlled substances in the individual's body that were not:

3083 (A) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
Cannabis; or

3085 (B) prescribed.

3086 (g) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily
reasonable and prudent person exercises under like or similar circumstances.

3089 (h) "Novice learner driver" means an individual who:

3090 (i) has applied for a Utah driver license;

3091 (ii) has not previously held a driver license in this state or another state; and

3092 (iii) has not completed the requirements for issuance of a Utah driver license.

3093 (i) "Screening" means a preliminary appraisal of a person:

3094 (i) used to determine if the person is in need of:

3095 (A) an assessment; or

3096 (B) an educational series; and

3097 (ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

3099 (j) "Serious bodily injury" means bodily injury that creates or causes:

3100 (i) serious permanent disfigurement;

3101 (ii) protracted loss or impairment of the function of any bodily member or organ; or

3102 (iii) a substantial risk of death.

3103

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- (k) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.
- (l) "Substance abuse treatment program" means a state licensed substance abuse program.
- (m)
 - (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and
 - (ii) "Vehicle" or "motor vehicle" includes:
 - (A) an off-highway vehicle as defined under Section 41-22-2; and
 - (B) a motorboat as defined in Section 73-18-2.
- (2) As used in Sections 41-6a-502 and 41-6a-520.1:
 - (a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:
 - (i) driving under the influence under Section 41-6a-502;
 - (ii)
 - (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or
 - (B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;
 - (iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;
 - (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;
 - (v) Section 76-5-207;
 - (vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
 - (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;
 - (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;
 - (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or
 - (x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation

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of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

3141 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which
3142 plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is
3143 the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in
3144 accordance with the plea in abeyance agreement, for purposes of:
3145 (i) enhancement of penalties under this part; and
3146 (ii) expungement under Title 77, Chapter 40a, Expungement of Criminal Records.
3147 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction
3148 even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile
3149 Procedure for the purposes of enhancement of penalties under:
3150 (i) this part;
3151 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and
3152 (iii) automobile homicide under Section 76-5-207.
3153 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a
3154 controlled substance.

3155 Section 36. Section **41-6a-517** is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body --

Penalties -- Arrest without warrant.

3156 (1) As used in this section:
3157 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.
3158 (b) "Practitioner" means the same as that term is defined in Section [58-37-2] 58-37-101.
3159 (c) "Prescribe" means the same as that term is defined in Section [58-37-2] 58-37-101.
3160 (d) "Prescription" means the same as that term is defined in Section [58-37-2] 58-37-101.
3161 (2)
3162 (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502,
3163 76-5-102.1, or 76-5-207, a person may not operate or be in actual physical control of a motor
3164 vehicle within this state if the person has any measurable controlled substance or metabolite of a
3165 controlled substance in the person's body.
3166 (b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the
3167 only controlled substance present in the person's body.

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3173 (3) It is an affirmative defense to prosecution under this section that the controlled substance was:

3175 (a) involuntarily ingested by the accused;

3176 (b) prescribed by a practitioner for use by the accused;

3177 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

3180 (d) otherwise legally ingested.

3181 (4)

(a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

3183 (b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section [58-37-8] 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211, 76-18-212, 76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219.

3187 (5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

3191 (6) The Driver License Division shall, if the person is 21 years old or older on the date of arrest:

3193 (a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

3195 (b) revoke, for a period of two years, the driver license of a person if:

3196 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3197 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

3199 (7) The Driver License Division shall, if the person is 19 years old or older but under 21 years old on the date of arrest:

3201 (a) suspend, until the person is 21 years old or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

3204 (b) revoke, until the person is 21 years old or for a period of two years, whichever is longer, the driver license of a person if:

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3206 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
3207 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period
of 10 years after the date of the prior violation.

3209 (8) The Driver License Division shall, if the person is under 19 years old on the date of arrest:
3211 (a) suspend, until the person is 21 years old, the driver license of a person convicted under Subsection
(2) of an offense committed on or after July 1, 2009; or
3213 (b) revoke, until the person is 21 years old, the driver license of a person if:
3214 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
3215 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period
of 10 years after the date of the prior violation.

3217 (9) The Driver License Division shall subtract from any suspension or revocation period the number
of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the
previous suspension was based on the same occurrence upon which the record of conviction is
based.

3221 (10) The Driver License Division shall:
3222 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to
July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1,
2009; or
3225 (b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation
periods in effect from July 1, 2009, through June 30, 2011, if:
3227 (i) the person was 20 years old or older but under 21 years old at the time of arrest; and
3229 (ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009,
and prior to July 1, 2011.

3231 (11) A court that reported a conviction of a violation of this section for a violation that occurred on or
after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under
Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:
3235 (a) completes at least six months of the license suspension;
3236 (b) completes a screening;
3237 (c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);
3239 (d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection
(11)(c);

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- 3241 (e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;
- 3244 (f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);
- 3247 (g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and
- 3249 (h)
 - (i) is 18 years old or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or
 - (ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).
- 3253 (12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a).
- 3263 (13)
 - (a) The court shall notify the Driver License Division if a person fails to complete all court ordered screening and assessment, educational series, and substance abuse treatment.
 - (b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).
- 3268 (14) The court:
 - (a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and
 - (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years old or older.
- 3273 (15)

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- (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.
- 3277 (b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division, in a manner specified by the division, the order shortening the person's suspension period.
- 3281 (c) The court shall notify the Driver License Division, in a manner specified by the division, if a person fails to complete all requirements of a 24-7 sobriety program.
- 3283 (d)
 - (i)
 - (A) Upon receiving the notification described in Subsection (15)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.
 - 3286 (B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was suspended under this section or under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.
 - 3291 (ii)
 - (A) Upon receiving the notification described in Subsection (15)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.
 - 3294 (B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.
- 3323 Section 37. Section **49-20-416** is amended to read:
- 3324 **49-20-416. Screening, Brief Intervention, and Referral to Treatment program reimbursement.**
- 3302 (1) As used in this section:
- 3303 (a) "Controlled substance prescriber" means a controlled substance prescriber, as that term is defined in Section [58-37-6.5] 58-37-303, who:

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3305 (i) has a record of having completed SBIRT training, in accordance with Subsection
[58-37-6.5(2)] 58-37-303(2), before providing the SBIRT services; and

3307 (ii) is a program enrolled controlled substance prescriber.

3308 (b) "SBIRT" means the same as that term is defined in Section [58-37-6.5] 58-37-303.

3309 (2) The health program offered to the state employee risk pool under Section 49-20-202 shall reimburse
a controlled substance prescriber who provides SBIRT services to a covered individual who is 13
years [of age] old or older for the SBIRT services.

3336 Section 38. Section **53-3-220** is amended to read:

3337 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of
license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.**

3316 (1)

(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 1a, Motor Vehicle
Act, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial,
suspension, or disqualification, the division shall deny, suspend, or disqualify the license or
endorsement of a person upon receiving a record of the person's conviction for:

3321 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, automobile
homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless
communication device while driving under Section 76-5-207.5;

3325 (ii) driving or being in actual physical control of a motor vehicle while under the influence of
alcohol, any drug, or combination of them to a degree that renders the person incapable of safely
driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that
complies with the requirements of Subsection 41-6a-510(1);

3330 (iii) driving or being in actual physical control of a motor vehicle while having a blood or breath
alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that
complies with the requirements of Subsection 41-6a-510(1);

3333 (iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor
Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating
driving on highways;

3336 (v) any felony under the motor vehicle laws of this state;

3337 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

3338

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- (vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;
- 3340 (viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;
- 3345 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;
- 3347 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;
- 3349 (xi) a violation of Section 76-11-209 involving the discharging or allowing the discharging of a firearm from a vehicle or a violation of Section 76-11-210;
- 3351 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-15-210(2)(b)(ii);
- 3353 (xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;
- 3356 (xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;
- 3359 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;
- 3361 (xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;
- 3363 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1);
- 3364 (xviii) failure to properly display a license plate on a motorcycle under Section 41-1a-404.1;
- 3366 (xix) performing a wheelie on a highway under Section 41-6a-606.1;
- 3367 (xx) engaging in lane splitting under Section 41-6a-704.1; or
- 3368 (xxi) two or more offenses that:
 - (A) are committed within a period of one year;
 - 3369 (B) are enhanced under Section 76-3-203.17; and

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3371 (C) arose from separate incidents.

3372 (b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

3374 (i) a violation of Section 76-11-209 involving the discharging or allowing the discharging of a firearm from a vehicle or a violation of Section 76-11-210 involving discharging or allowing the discharge of a firearm from a vehicle; or

3377 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-15-210(2)(b)(ii).

3379 (c)

(i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating ~~[any one of the following offenses]~~ an offense contained in one of the following provisions while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

3386 (A) ~~Title 58, Chapter 37, Utah Controlled Substances Act~~ Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;

3389 (B) Title 58, Chapter 37c, Controlled Substance Precursors;

3390 (C) Title 76, Chapter 18, Part 3, Offenses Concerning Drug Paraphernalia;

3391 (D) Title 76, Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances;

3393 (E) Title 76, Chapter 18, Part 5, Clandestine Drug Labs; {~~or~~}

3394 ~~(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]~~

3395 ~~(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;]~~

3396 ~~(D) Title 58, Chapter 37e, Utah Controlled Substance Precursor Act;]~~

3397 ~~(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or]~~

3398 (F) an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in Subsection (1)(c)(i)(A) through (E); or

3425 (G) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the ~~[acts]~~ provisions described in Subsections (1)(c)(i)(A) through ~~(E)~~ (F), or the attempt or conspiracy to possess, distribute, manufacture,

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cultivate, sell, or transfer any substance that is prohibited under the acts provisions described in Subsections (1)(c)(i)(A) through (E) (F).

3403 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

3409 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

3411 (iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

3413 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

3418 (d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

3421 (A) an order from the sentencing court requiring that the person's driver license be suspended; and

3423 (B) a record of the conviction.

3424 (ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

3426 (e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

3428 (A) conviction for the first time for a violation under Section 32B-4-411; or

3429 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

3431 (ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

3433 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

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3435 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

3437 (B)

(I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

3439 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

3442 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

3443 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

3444 (I) impose a suspension for one year beginning on the date of conviction; or

3445 (II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

3448 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

3449 (I) impose a suspension for a period of two years; or

3450 (II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

3453 (iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

3457 (v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

3461 (f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:

3463 (i) an order from the sentencing court requiring the person's driver license to be suspended; and

3465 (ii) a record of the conviction.

3466 (2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

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3469 (a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

3471 (b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

3473 (c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

3475 (d) a report of an accident in which the person was involved as a driver.

3476 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

3480 (4)

(a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

3484 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

3486 (ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

3493 (A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

3495 (B) the division receives written verification from the person's primary care physician or physician assistant that:

3497 (I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

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3500 (II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment
3503 that would affect the person's ability to operate a motor vehicle safely; and
3505 (C) for a period of one year prior to the date of the request for a limited driving privilege:
3507 (I) the person has not been convicted of a violation of any motor vehicle law in which the person was
3510 involved as the operator of the vehicle;
3512 (II) the division has not received a report of an arrest for a violation of any motor vehicle law in which
3514 the person was involved as the operator of the vehicle; and
3516 (III) the division has not received a report of an accident in which the person was involved as an
3519 operator of a vehicle.
3520 (b)
3522 (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection
3525 (4):
3527 (A) is limited to when undue hardship would result from a failure to grant the privilege; and
3530 (B) may be granted only once to any person during any single period of denial, suspension,
3533 revocation, or disqualification, or extension of that denial, suspension, revocation, or
3535 disqualification.
3537 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):
3540 (A) is limited to when the limited privilege is necessary for the person to commute to school or work;
3543 and
3545 (B) may be granted only once to any person during any single period of denial, suspension, revocation,
3548 or disqualification, or extension of that denial, suspension, revocation, or disqualification.
3550 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial
3553 Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this
3555 chapter.
3557 Section 39. Section **53-10-113** is amended to read:
3560 **53-10-113. Other agencies to cooperate with division.**
3563 (1) All agencies of the state and local governments shall cooperate with the division in discharging
3566 [its] the division's responsibilities under:
3568 (a) this chapter;
3571 (b) Title 32B, Alcoholic Beverage Control Act;
3574 (c) [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances;

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3536 (d) Title 58, Chapter 37c, Controlled Substance Precursors;
3537 (e) Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;
3538 [(d)] (f) [Title 58, Chapter 37a, Utah Drug Paraphernalia Act] Title 76, Chapter 18, Part 3, Offenses
3540 Concerning Drug Paraphernalia; and
3541 [(e)] (g) [Title 58, Chapter 37b, Imitation Controlled Substances Act; and] Title 76, Chapter 18, Part 4,
3542 Offenses Concerning Imitation Controlled Substances.
3543 (f) Title 58, Chapter 37e, Utah Controlled Substance Precursor Act.]
3544 (2) This part does not relieve local law enforcement agencies or officers of the responsibility of
3545 enforcing laws relating to alcoholic beverages and alcoholic products or any other laws.
3546 (3) The powers and duties conferred upon the director and the officers of the division are not a
3547 limitation upon the powers and duties of other peace officers in the state.
3548 Section 40. Section **53-10-114** is amended to read:
3549 **53-10-114. Authority regarding drug precursors.**
3550 (1) As used in this section, "acts" means:
3551 (a) [Title 58, Chapter 37c, Utah Controlled Substance Precursor Act] Title 58, Chapter 37c, Controlled
3552 Substance Precursors; and
3553 (b) [Title 58, Chapter 37d, Clandestine Drug Lab Act] Title 76, Chapter 18, Part 5, Clandestine Drug
3554 Labs.
3555 (2) The division has authority to enforce the drug lab and precursor acts. To carry out this purpose, the
3556 division may:
3557 (a) inspect, copy, and audit any records, inventories of controlled substance precursors, and reports
3558 required under the acts and rules adopted under the acts;
3559 (b) enter the premises of regulated distributors and regulated purchasers during normal business hours
3560 to conduct administrative inspections;
3561 (c) assist the law enforcement agencies of the state in enforcing the acts;
3562 (d) conduct investigations to enforce the acts;
3563 (e) present evidence obtained from investigations conducted in conjunction with appropriate county
3564 and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for
3565 administrative action against a licensee; and
3566 (f) work in cooperation with the Division of Professional Licensing, created under Section 58-1-103, to
3567 accomplish the purposes of this section.

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3596 Section 41. Section **53-10-211** is amended to read:

3597 **53-10-211. Notice required of arrest of school employee for controlled substance or sex
offense.**

3571 (1) The chief administrative officer of the law enforcement agency making the arrest or receiving notice
 under Subsection (2) shall immediately notify:

3573 (a) the State Board of Education; and

3574 (b) the superintendent of schools of the employing public school district or, if the offender is an
 employee of a private school, the administrator of that school.

3576 (2) Subsection (1) applies upon:

3577 (a) the arrest of any school employee for any offense:

3578 (i) in Section [58-37-8] 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211,
 76-18-212, 76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219;

3581 (ii) in Title 76, Chapter 5, Part 4, Sexual Offenses; or

3582 (iii) involving sexual conduct; or

3583 (b) upon receiving notice from any other jurisdiction that a school employee has committed an act
 which would, if committed in Utah, be an offense under Subsection (2)(a).

3614 Section 42. Section **53-10-304** is amended to read:

3615 **53-10-304. Narcotics and alcoholic product enforcement -- Responsibility and jurisdiction.**

3590 The bureau shall:

3592 (1) have specific responsibility for the enforcement of all laws of the state pertaining to alcoholic
 beverages and alcoholic products;

3593 (2) have general law enforcement jurisdiction throughout the state;

3595 (3) have concurrent law enforcement jurisdiction with all local law enforcement agencies and their
 officers;

3599 (4) cooperate and exchange information with any other state agency and with other law enforcement
 agencies of government, both within and outside this state, to obtain information that may achieve
 more effective results in the prevention, detection, and control of crime and apprehension of
 criminals;

3601 (5) sponsor or supervise programs or projects related to prevention, detection, and control of violations
 of:

3601 (a) Title 32B, Alcoholic Beverage Control Act;

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3602 (b) [Title 58, Chapter 37, Utah Controlled Substances Act;] Title 58, Chapter 37, Controlled
Substances;

3604 (c) Title 58, Chapter 37c, Controlled Substance Precursors;

3605 (d) Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;

3606 (e) Title 76, Chapter 18, Part 3, Offenses Concerning Drug Paraphernalia;

3607 (f) Title 76, Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances; and

3609 (g) Title 76, Chapter 18, Part 5, Clandestine Drug Labs; and

3610 [(e) ~~Title 58, Chapter 37a, Utah Drug Paraphernalia Act;~~]

3611 [(d) ~~Title 58, Chapter 37b, Imitation Controlled Substances Act;~~]

3612 [(e) ~~Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and~~]

3613 [(f) ~~Title 58, Chapter 37d, Clandestine Drug Lab Act; and~~]

3614 (6) assist the governor in an emergency or as the governor may require.

3643 Section 43. Section **53G-8-205** is amended to read:

53G-8-205. Grounds for suspension or expulsion from a public school.

3618 (1) A student may be suspended or expelled from a public school for the following reasons:

3619 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior,
 including the use of foul, profane, vulgar, or abusive language;

3621 (b) willful destruction or defacing of school property;

3622 (c) behavior or threatened behavior which poses an immediate and significant threat to the welfare,
 safety, or morals of other students or school personnel or to the operation of the school;

3625 (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

3626 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school
 property, to a person associated with the school, or property associated with that person, regardless
 of where it occurs; or

3629 (f) possession or use of pornographic material on school property.

3630 (2)

3632 (a) A student shall be suspended or expelled from a public school for the following reasons:

3633 (i) a serious violation affecting another student or a staff member, or a serious violation occurring in
 a school building, in or on school property, or in conjunction with a school activity, including:

3635 (A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or
 flammable material;

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3637 (B) the actual use of violence or sexual misconduct;

3638 (C) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

3640 (D) the sale, control, or distribution of a drug or controlled substance as defined in Section [58-37-2] 58-37-101, an imitation controlled substance defined in Section [58-37b-2] 76-18-401, or drug paraphernalia as defined in Section [58-37a-3] 76-18-301;

3644 (ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor; or

3646 (iii) making a false report of an emergency at a school under Subsection 76-9-105.5(2)(b).

3648 (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

3651 (i) within 45 days after the expulsion the student shall appear before the student's superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and

3655 (ii) the superintendent, chief administrator, or designee shall determine:

3656 (A) what conditions must be met by the student and the student's parent for the student to return to school, including any provided for in the policies described in Section 53G-8-203;

3659 (B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

3663 (C) if it would be in the best interest of both the LEA, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local governing board and giving highest priority to providing a safe school environment for all students.

3667 (3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

3669 (4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).

3671 (5) A local governing board shall prepare an annual report for the state board on:

3672 (a) each violation committed under this section; and

3673 (b) each action taken by the LEA against a student who committed the violation.

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3702 Section 44. Section **53G-8-501** is amended to read:

3703 **53G-8-501. Definitions.**

For purposes of Sections 53G-8-502 through 53G-8-504:

3677 (1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

3679 (2) "Prohibited act" means an act prohibited by:

3680 (a) Section 53G-8-602, relating to alcohol;

3681 (b) Section [58-37-8] 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211, 76-18-212, 76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219, relating to controlled substances; or

3684 (c) Section [58-37a-5] 76-18-304, 76-18-305, or 76-18-306, relating to drug paraphernalia.

3714 Section 45. Section **53G-8-505** is amended to read:

3715 **53G-8-505. Definitions.**

For purposes of Sections 53G-8-506 through 53G-8-509:

3689 (1) The definitions in Sections [58-37-2, 58-37a-3, and 58-37b-2] 58-37-101, 76-18-301, and 76-18-401 apply to Sections 53G-8-506 through 53G-8-509.

3691 (2) "Prohibited act" means:

3692 (a) an act punishable under:

3693 (i) Section 53G-8-602[~~, Seetion 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b, Imitation Controlled Substances Act; or~~];

3695 (ii) Section 76-18-204;

3696 (iii) Section 76-18-207;

3697 (iv) Section 76-18-208;

3698 (v) Section 76-18-209;

3699 (vi) Section 76-18-210;

3700 (vii) Section 76-18-211;

3701 (viii) Section 76-18-212;

3702 (ix) Section 76-18-213;

3703 (x) Section 76-18-214;

3704 (xi) Section 76-18-215;

3705 (xii) Section 76-18-216;

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3706 (xiii) Section 76-18-217;
3707 (xiv) Section 76-18-218;
3708 (xv) Section 76-18-219;
3709 (xvi) Section 76-18-304;
3710 (xvii) Section 76-18-305;
3711 (xviii) Section 76-18-306; or
3712 (xix) Title 76, Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances; or
3714 (b) possession of an electronic cigarette product by a student on school property.
3715 (3) "School" means a public or private elementary or secondary school.

3744 Section 46. Section **58-1-501.7** is amended to read:

58-1-501.7. Standards of conduct for prescription drug education -- Academic and commercial detailing.

3719 (1) For purposes of this section:
3720 (a) "Academic detailing":
3721 (i) means a health care provider who is licensed under this title to prescribe or dispense a prescription drug and employed by someone other than a pharmaceutical manufacturer:
3724 (A) for the purpose of countering information provided in commercial detailing; and
3726 (B) to disseminate educational information about prescription drugs to other health care providers in an effort to better align clinical practice with scientific research; and
3729 (ii) does not include a health care provider who:
3730 (A) is disseminating educational information about a prescription drug as part of teaching or supervising students or graduate medical education students at an institution of higher education or through a medical residency program;
3733 (B) is disseminating educational information about a prescription drug to a patient or a patient's representative; or
3735 (C) is acting within the scope of practice for the health care provider regarding the prescribing or dispensing of a prescription drug.
3737 (b) "Commercial detailing" means an educational practice employed by a pharmaceutical manufacturer in which clinical information and evidence about a prescription drug is shared with health care professionals.
3740 (c) "Manufacture" [is as] means the same as that term is defined in Section [58-37-2] 58-37-101.

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3742 (d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.

3743 (2)

3744 (a) Except as provided in Subsection (3), the provisions of this section apply to an academic detailer
beginning July 1, 2013.

3745 (b) An academic detailer and a commercial detailer who educate another health care provider about
prescription drugs through written or oral educational material is subject to federal regulations
regarding:

3746 (i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

3747 (ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

3748 (iii) the federal Office of the Inspector General's Compliance Program Guidance for Pharmaceutical
Manufacturers issued in April 2003, as amended.

3749 (c) A person who is injured by a violation of this section has a private right of action against a person
engaged in academic detailing, if:

3750 (i) the actions of the person engaged in academic detailing, that are a violation of this section, are:

3751 (A) the result of gross negligence by the person; or

3752 (B) willful and wanton behavior by the person; and

3753 (ii) the damages to the person are reasonable, foreseeable, and proximately caused by the violations of
this section.

3754 (3)

3755 (a) For purposes of this Subsection, "accident and health insurance":

3756 (i) means the same as that term is defined in Section 31A-1-301; and

3757 (ii) includes a self-funded health benefit plan and an administrator for a self-funded health benefit
plan.

3758 (b) This section does not apply to a person who engages in academic detailing if that person is engaged
in academic detailing on behalf of:

3759 (i) a person who provides accident and health insurance, including when the person who provides
accident and health insurance contracts with or offers:

3760 (A) the state Medicaid program, including the Primary Care Network within the state's Medicaid
program;

3761 (B) the Children's Health Insurance Program created in Section 26B-3-902;

3762 (C) a Medicare plan; or

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3772 (D) a Medicare supplement plan;

3773 (ii) a hospital as defined in Section 26B-2-201;

3774 (iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated pharmacies;

3776 (iv) an integrated health system as defined in Section 13-5b-102; or

3777 (v) a medical clinic.

3778 (c) This section does not apply to communicating or disseminating information about a prescription drug for the purpose of conducting research using prescription drugs at a health care facility as defined in Section 26B-2-201, or a medical clinic.

3809 Section 47. Section **58-5a-102** is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

3784 (1) "Assisted living facility" means the same as that term is defined in Section 26B-2-201.

3785 (2) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

3786 (3) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3788 (4) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

3792 (5) "Practice of podiatry" means, subject to Section 58-5a-103, the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions, and wound debridement on the limbs and torso, by all appropriate and lawful means.

3796 (6) "Unlawful conduct" includes:

3797 (a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

3798 (b) for an individual who is not licensed under this chapter:

3799 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

3801 (ii) implying or representing that the individual is qualified to practice podiatry.

3802 (7)

3803 (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

3804 (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

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- (ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;
- (iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;
- (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;
- (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;
- (vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section [58-37-2] 58-37-101;
- (vii) gross incompetency in the practice of podiatry;
- (viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;
- (ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;
- (x) willfully using false or fraudulent advertising;
- (xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (xii) falsely making an entry in, or altering, a medical record with the intent to conceal:
 - (A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or
 - (B) conduct described in Subsections (7)(a)(i) through (xi) or Subsection 58-1-501(1); or
- (xiii) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(b) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis within the scope of practice of podiatry.

Section 48. Section **58-16a-601** is amended to read:

58-16a-601. Scope of practice.

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3839 (1) An optometrist may:

3840 (a) provide optometric services not specifically prohibited under this chapter or division rules if the services are within the optometrist's training, skills, and scope of competence; and

3843 (b) prescribe or administer pharmaceutical agents for the eye and its adnexa, including oral agents, subject to the following conditions:

3845 (i) an optometrist may prescribe oral antibiotics for only eyelid related ocular conditions or diseases, and other ocular conditions or diseases specified by division rule; and

3848 (ii) an optometrist may administer or prescribe a hydrocodone combination drug, or a Schedule III controlled substance, as defined in Section [58-37-4] 58-37-108, only if:

3851 (A) the substance is administered or prescribed for pain of the eye or adnexa;

3852 (B) the substance is administered orally or topically or is prescribed for oral or topical use;

3854 (C) the amount of the substance administered or prescribed does not exceed a 72-hour quantity; and

3856 (D) if the substance is prescribed, the prescription does not include refills.

3857 (2) An optometrist may not:

3858 (a) perform surgery, including laser surgery; or

3859 (b) prescribe or administer a Schedule II controlled substance, as defined in Section [58-37-4] 58-37-108, except for a hydrocodone combination drug, if so scheduled and prescribed or administered in accordance with Subsection (1)(b).

3862 (3) For purposes of Sections 31A-22-618 and 31A-45-303, an optometrist is a health care provider.

3892 Section 49. Section **58-17b-102** is amended to read:

3893 **58-17b-102. Definitions.**

3867 In addition to the definitions in Section 58-1-102, as used in this chapter:

3868 (1) "Administering" means:

3871 (a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

3875 (2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

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3877 (3)

(a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

3879 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

3885 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

3887 (5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

3891 (6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

3894 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

3896 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

3900 (9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

3904 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

3907 (11) "Class B pharmacy":

3908 (a) means a pharmacy located in Utah:

3909 (i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

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3911 (ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

3913 (b)

3914 (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

3915 (ii) pharmaceutical administration and sterile product preparation facilities.

3917 (12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

3918 (13) "Class D pharmacy" means a nonresident pharmacy.

3919 (14) "Class E pharmacy" means all other pharmacies.

3920 (15)

3921 (a) "Closed-door pharmacy" means a pharmacy that:

3922 (i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

3923 (ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

3924 (b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

3925 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

3926 (17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

3927 (18)

3928 (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

3929 (i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

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3942 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

3944 (iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

3946 (b) "Compounding" does not include:

3947 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

3949 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

3952 (iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

3954 (19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

3957 (20) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

3959 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

3961 (22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

3965 (23) "Dispensing medical practitioner" means an individual who is:

3966 (a) currently licensed as:

3967 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

3968 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

3970 (iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

3971 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

3972 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

3974 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

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3976 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a
3976 licensed dispensing medical practitioner's place of practice.

3978 (25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

3980 (26)

3981 (a) "Drug" means:

3981 (i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic
3981 Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of
3981 them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in
3981 humans or animals;

3985 (ii) a substance that is required by any applicable federal or state law or rule to be dispensed by
3985 prescription only or is restricted to administration by practitioners only;

3988 (iii) a substance other than food intended to affect the structure or any function of the body of
3988 humans or other animals; and

3990 (iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i)
3990 through (iii).

3992 (b) "Drug" does not include dietary supplements.

3993 (27) "Drug regimen review" includes the following activities:

3994 (a) evaluation of the prescription drug order and patient record for:

3995 (i) known allergies;

3996 (ii) rational therapy-contraindications;

3997 (iii) reasonable dose and route of administration; and

3998 (iv) reasonable directions for use;

3999 (b) evaluation of the prescription drug order and patient record for duplication of therapy;

4000 (c) evaluation of the prescription drug order and patient record for the following interactions:

4002 (i) drug-drug;

4003 (ii) drug-food;

4004 (iii) drug-disease; and

4005 (iv) adverse drug reactions; and

4006 (d) evaluation of the prescription drug order and patient record for proper utilization, including over- or
4006 under-utilization, and optimum therapeutic outcomes.

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(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

4013 (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

4016 (30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

4018 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

4022 (32) "Legend drug" has the same meaning as prescription drug.

4023 (33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

4026 (34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

4028 (35)

4029 (a) "Manufacturing" means:

4034 (i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

4034 (ii) the promotion and marketing of such drugs or devices.

4035 (b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

4038 (c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

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4042 (36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

4044 (37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

4047 (38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

4049 (39)

- (a) "Nonprescription drug" means a drug which:
 - (i) may be sold without a prescription; and
 - (ii) is labeled for use by the consumer in accordance with federal law.
- (b) "Nonprescription drug" includes homeopathic remedies.

4053 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

4055 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

4056 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

- (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;
- (b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or
- (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

4063 (43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

4068 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

- (a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;
- (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

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4077 (c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

4079 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

4081 (i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

4084 (ii) eliminating or reducing a patient's symptoms; or

4085 (iii) arresting or slowing a disease process.

4086 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

4088 (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

4091 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

4095 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

4097 (i) intracompany sales;

4098 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

4102 (A) hospitals;

4103 (B) pharmacies;

4104 (C) chain pharmacy warehouses, as defined by division rule; or

4105 (D) other health care entities, as defined by division rule;

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- (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:
 - 4110 (A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and
 - 4113 (B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;
- 4115 (iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and
- 4117 (v) the distribution of prescription drugs, if:
 - 4118 (A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and
 - 4120 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.
- 4121 (48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.
- 4123 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.
- 4127 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.
- 4130 (51) "Pharmacy" means any place where:
 - 4131 (a) drugs are dispensed;
 - 4132 (b) pharmaceutical care is provided;
 - 4133 (c) drugs are processed or handled for eventual use by a patient; or
 - 4134 (d) drugs are used for the purpose of analysis or research.
- 4135 (52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

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(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

4141 (54) "Pharmacy manager" means:

4142 (a) a pharmacist-in-charge;

4143 (b) a licensed pharmacist designated by a licensed pharmacy to consult on the pharmacy's administration;

4145 (c) an individual who manages the facility in which a licensed pharmacy is located;

4146 (d) an individual who oversees the operations of a licensed pharmacy;

4147 (e) an immediate supervisor of an individual described in Subsections (54)(a) through (d); or

4149 (f) another operations or site manager of a licensed pharmacy.

4150 (55) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

4152 (56)

4157 (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

4158 (b) "Practice as a dispensing medical practitioner" does not include:

4159 (i) using a vending type of dispenser as defined by the division by administrative rule; or

4160 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section [58-37-2] 58-37-101.

4162 (57) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

4166 (58) "Practice of pharmacy" includes the following:

4167 (a) providing pharmaceutical care;

4168 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

4170 (c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

4173 (i) pursuant to a lawful order of a practitioner when one is required by law; and

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4174 (ii) in accordance with written guidelines or protocols;

4175 (A) established by the licensed facility in which the prescription drug or device is to be administered on
an inpatient basis; or

4177 (B) approved by the division, in collaboration with the board and, when appropriate, the Medical
Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be
administered on an outpatient basis solely by a licensed pharmacist;

4181 (d) participating in drug utilization review;

4182 (e) ensuring proper and safe storage of drugs and devices;

4183 (f) maintaining records of drugs and devices in accordance with state and federal law and the standards
and ethics of the profession;

4185 (g) providing information on drugs or devices, which may include advice relating to therapeutic values,
potential hazards, and uses;

4187 (h) providing drug product equivalents;

4188 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

4190 (j) providing patient counseling, including adverse and therapeutic effects of drugs;

4191 (k) providing emergency refills as defined by rule;

4192 (l) telepharmacy;

4193 (m) formulary management intervention;

4194 (n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title
26B, Chapter 4, Part 5, Treatment Access; and

4196 (o) issuing a prescription in accordance with Section 58-17b-610.8 or 58-17b-627.

4197 (59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications
and information technologies.

4199 (60) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of
telecommunications and information technologies that occurs when the patient is physically located
within one jurisdiction and the pharmacist is located in another jurisdiction.

4203 (61) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the
appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

4206 (62) "Prescribe" means to issue a prescription:

4207 (a) orally or in writing; or

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- (b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.
- 4210 (63) "Prescription" means an order issued:
 - 4211 (a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and
 - 4213 (b) for a controlled substance or other prescription drug or device for use by a patient or an animal.
- 4215 (64) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.
- 4220 (65) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.
- 4222 (66) "Repackage":
 - 4223 (a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and
 - 4225 (b) does not include:
 - 4226 (i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or
 - 4228 (ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.
- 4231 (67) "Research using pharmaceuticals" means research:
 - 4232 (a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;
 - 4235 (b) requiring the use of a controlled substance, prescription drug, or prescription device;
 - 4236 (c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and
 - 4239 (d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

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(68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

4243 (69) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

4246 (b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

4248 (c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

4250 (70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

4252 (71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

4254 (72) "Supportive personnel" means unlicensed individuals who:

4255 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

4260 (b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

4262 (73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

4264 (74) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

4266 (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

4269 (76) "Written communication" means a physical document, or an electronic communication, by or from which the recipient may read or access the information intended to be communicated, including:

4272 (a) email;

4273 (b) text message; and

4274 (c) quick response (QR) code.

4303 Section 50. Section **58-17b-103** is amended to read:

4304 **58-17b-103. Administrative inspections.**

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4277 (1) The division may for the purpose of ascertaining compliance with the provisions of this chapter, require a self-audit or enter and inspect the business premises of a person:

4279 (a) licensed under Part 3, Licensing; or

4280 (b) who is engaged in activities that require a license under Part 3, Licensing.

4281 (2) Before conducting an inspection under Subsection (1), the division shall, after identifying the person in charge:

4283 (a) give proper identification;

4284 (b) request to see the applicable license or licenses;

4285 (c) describe the nature and purpose of the inspection; and

4286 (d) provide upon request, the authority of the division to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 58-17b-504.

4288 (3) In conducting an inspection under Subsection (1), the division may, after meeting the requirements of Subsection (2):

4290 (a) examine any record, prescription, order, drug, device, equipment, machine, electronic device or media, or area related to activities for which a license has been issued or is required by Part 3, Licensing, for the purpose of ascertaining compliance with the applicable provisions of this chapter;

4294 (b) reproduce any record or media at the division's own cost;

4295 (c) take a drug or device for further analysis if considered necessary;

4296 (d) temporarily seize a drug or device that is suspected to be adulterated, misbranded, outdated, or otherwise in violation of this chapter, pending an adjudicative proceeding on the matter;

4299 (e) box and seal drugs suspected to be adulterated, outdated, misbranded, or otherwise in violation of this chapter; and

4301 (f) dispose of or return a drug or device obtained under this Subsection (3) in accordance with procedures established by division rule.

4303 (4) An inspection described in Subsection (1) shall be conducted during regular business hours.

4305 (5) If, upon inspection, the division concludes that a person has violated the provisions of this chapter or ~~[Chapter 37, Utah Controlled Substances Act]~~ Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a rule or order issued with respect to those chapters, and that disciplinary action is appropriate, the director or the director's designee shall promptly issue a fine or citation to the licensee in accordance with Section 58-17b-504.

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4339 Section 51. Section **58-17b-201** is amended to read:

4340 **58-17b-201. Board -- Membership -- Qualifications -- Terms.**

4313 (1) There is created the Utah State Board of Pharmacy consisting of five pharmacists, one pharmacy technician, and one member of the general public.

4315 (a) The public member of the board shall be a Utah resident who:

4316 (i) is 21 years ~~of age~~ old or older;

4317 (ii) has never been licensed to engage in the practice of pharmacy;

4318 (iii) has never been the spouse of a person licensed to engage in the practice of pharmacy;

4320 (iv) has never held any material financial interest in pharmacy practice; and

4321 (v) has never engaged in any activity directly related to the practice of pharmacy.

4322 (b) The licensed pharmacist and licensed pharmacy technician members of the board shall:

4324 (i) have been Utah residents continuously for at least three years;

4325 (ii) have at least five years experience in the practice of pharmacy in good standing with the division in Utah after licensure; and

4327 (iii) maintain licensure in good standing to engage in the practice of pharmacy or practice as a pharmacy technician in Utah for the duration of the appointment.

4329 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

4330 (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203, and as required under Section 58-37f-202 regarding the controlled substance database. In addition, the board shall designate an appropriate member on a permanent or rotating basis to:

4334 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

4336 (b) advise the division in its investigation of these complaints.

4337 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

4340 (5) A board member may be removed in accordance with Subsection 58-1-201(2)(e) or upon one of the following grounds:

4342 (a) refusal or inability for any reason of a board member to perform his duties as a member of the Board in an efficient, responsible, and professional manner;

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(b) misuse of appointment to obtain personal, pecuniary, or material gain or advantage for himself or another through such appointment; or

4346 (c) violation of the laws governing the practice of pharmacy or ~~[Chapter 37, Utah Controlled Substances Act] Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.~~

4377 Section 52. Section **58-17b-502** is amended to read:

4378 **58-17b-502. Unprofessional conduct.**

4351 (1) "Unprofessional conduct" includes:

4352 (a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

4354 (b) except as provided in Subsection (2):

4355 (i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

4358 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

4361 (c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

4363 (d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

4365 (e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of a pharmacy;

4367 (f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

4370 (g) violating:

4371 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;

4372 (ii) ~~[Title 58, Chapter 37, Utah Controlled Substances Act] Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;~~ or

4375 (iii) rules or regulations adopted under either act;

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- (h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;
- 4380 (i) administering:
- 4381 (i) without appropriate training, as defined by rule;
- 4382 (ii) without a physician's order, when one is required by law; and
- 4383 (iii) in conflict with a practitioner's written guidelines or written protocol for administering;
- 4385 (j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;
- 4388 (k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;
- 4390 (l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;
- 4393 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;
- 4396 (n) failing to act in accordance with Title 26B, Chapter 4, Part 5, Treatment Access, when dispensing a self-administered hormonal contraceptive under a standing order;
- 4398 (o) violating the requirements of Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
- 4401 (p) falsely making an entry in, or altering, a medical record with the intent to conceal:
 - (i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or
 - 4405 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).
- 4406 (2) Subsection (1)(b) does not apply to:
 - (a) giving or receiving a price discount based on purchase volume;
 - 4408 (b) passing along a pharmaceutical manufacturer's rebate; or
 - 4409 (c) providing compensation for services to a veterinarian.
- 4410 (3) "Unprofessional conduct" does not include:

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4411 (a) in accordance with

4412 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy; or

4415 (b) if a pharmacist reasonably believes that a prescription drug will have adverse or harmful effects on an individual and warns the individual of the potential effects, filling a prescription prescribed by a health care provider who:

4418 (i) is operating within the health care provider's scope of practice; and

4419 (ii) is deviating from a medical norm or established practice in accordance with Subsection 58-1-501(2)(b)(i).

4421 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

4452 Section 53. Section **58-17b-504** is amended to read:

4453 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

4427 (1) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

4430 (2) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

4433 (3)

4435 (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts of unprofessional or unlawful conduct, the division may:

4436 (i) assess administrative penalties; and

4436 (ii) take any other appropriate administrative action.

4437 (b) An administrative penalty imposed pursuant to this section shall be deposited in the General Fund as a dedicated credit to be used by the division for pharmacy licensee education and enforcement as provided in Section 58-17b-505.

4440 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

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4444 (5) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-17b-501 or 58-17b-502, [Chapter 37, Utah Controlled Substances Act] Chapter 37, Controlled Substances, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Professional Licensing Act, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a provision described in a statute previously in effect in this state that is the same or substantially similar to a provision described in Section 58-17b-501 or 58-17b-502, Chapter 37, Controlled Substances, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Professional Licensing Act, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4455 (b) Any person who is in violation of [the provisions of Section 58-17b-501 or 58-17b-502, {f} Chapter 37, Utah Controlled Substances Act{] Chapter 37, Controlled Substances}, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Professional Licensing Act] a provision described in Subsection (5)(a), {Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, } or any rule or order issued with respect to [these provisions] a provision described in Subsection (5)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a fine [pursuant to] in accordance with this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating [the provisions of Section 58-17b-501 or 58-17b-502, {f} Chapter 37, Utah Controlled Substances Act{] Chapter 37, Controlled Substances}, Chapter 1, Division of Professional Licensing Act] the provision described in Subsection (5)(a), {Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, } or any rule or order issued with respect to [these provisions] the provision described in Subsection (5)(a).

4469 (c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-17b-401 may not be assessed through a citation.

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(d) Each citation shall be in writing and specifically describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated. The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act. The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

4479 (e) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

4481 (i) in accordance with the Utah Rules of Civil Procedure;

4482 (ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

4484 (iii) by mail.

4485 (f) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

4489 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

4491 (h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

4493 (i) No citation may be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

4496 (6)

4497 (a) The director may collect a penalty that is not paid by:

4498 (i) referring the matter to a collection agency; or

4498 (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

4501 (b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

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(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

4537 Section 54. Section **58-17b-609** is amended to read:

4538 **58-17b-609. Limitation on prescriptions and refills -- Controlled Substances Act not affected**
4508 **-- Legend drugs.**

4512 (1) Except as provided in Sections 58-16a-102 and 58-17b-608.2, a prescription for any prescription drug or device may not be dispensed after one year from the date it was initiated except as otherwise provided in ~~[Chapter 37, Utah Controlled Substances Act]~~ Chapter 37, Controlled Substances.

4514 (2) Except as provided in Section 58-17b-608.2, a prescription authorized to be refilled may not be refilled after one year from the original issue date.

4516 (3) A practitioner may not be prohibited from issuing a new prescription for the same drug orally, in writing, or by electronic transmission.

4518 (4) Nothing in this chapter affects ~~[Chapter 37, Utah Controlled Substances Act]~~ Chapter 37, Controlled Substances.

4553 (5) A prescription for a legend drug written by a licensed prescribing practitioner in another state may be filled or refilled by a pharmacist or pharmacy intern in this state if the pharmacist or pharmacy intern verifies that the prescription is valid.

4553 Section 55. Section **58-17b-610.6** is amended to read:

4554 **58-17b-610.6. Hospital pharmacy dispensing prescription drugs.**

4524 (1) As used in this section, "controlled substance" means a substance classified as a controlled substance under the Controlled Substances Act, Title II, Pub. L. No. 91-513 et seq., or Section ~~[58-37-4]~~ 58-37-108.

4527 (2)

4527 (a) Subject to Subsection (2)(b), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies, to establish guidelines under which a hospital pharmacy may dispense a limited supply of a prescription drug to an individual who is no longer a patient in the hospital setting if:

4532 (i) the individual is discharged from the hospital on the same day that the hospital pharmacy dispenses the prescription drug to the individual;

4534 (ii) in the professional judgment of the practitioner, dispensing the drug is necessary for the patient's immediate needs;

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4603 Section 57. Section **58-17b-627** is amended to read:

4604 **58-17b-627. Prescription of drugs or devices by a pharmacist.**

4574 (1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or device if:

4575 (a) prescribing the prescription drug or device is within the scope of the pharmacist's training and
 experience;

4577 (b) the prescription drug or device is designated by the division by rule under Subsection (3)(a); and

4579 (c) the prescription drug or device is not a controlled substance that is included in Schedules I, II, III, or
 IV of:

4581 (i) Section ~~58-37-4~~ 58-37-108; or

4582 (ii) the federal Controlled Substances Act, Title II, P.L. 91-513.

4583 (2) Nothing in this section requires a pharmacist to issue a prescription for a prescription drug or device.

4585 (3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 Rulemaking Act, to:

4587 (a) designate the prescription drugs or devices that may be prescribed by a pharmacist under this
 section, beginning with prescription drugs or devices that address a public health concern that is
 designated by the Department of Health and Human Services, including:

4591 (i) post-exposure HIV prophylaxis;

4592 (ii) pre-exposure HIV prophylaxis;

4593 (iii) self-administered hormonal contraceptives;

4594 (iv) smoking cessation;

4595 (v) naloxone; and

4596 (vi) fluoride;

4597 (b) create guidelines that a pharmacist must follow when prescribing a prescription drug or device,
 including guidelines:

4599 (i) for notifying the patient's primary care or other health care provider about the prescription; and

4601 (ii) to prevent the over-prescription of drugs or devices including but not limited to antibiotics;

4603 (c) address when a pharmacist should refer the patient to an appropriate health care provider or
 otherwise encourage the patient to seek further medical care; and

4605 (d) implement the provisions of this section.

4606 (4) The division shall make rules under Subsection (3) in collaboration with:

4607 (a) individuals representing pharmacies and pharmacists;

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4608 (b) individuals representing physicians and advanced practice clinicians; and
4609 (c)
4611 (i) if the executive director of the Department of Health and Human Services is a physician, the
4614 executive director of the Department of Health and Human Services;
4611 (ii) if the executive director of the Department of Health and Human Services is not a physician, a
4614 deputy director who is a physician in accordance with Subsection 26B-1-203(4); or
4615 (iii) a designee of the individual described in Section 26B-1-203.

4617 (5) Before November 1 of each year, the division, in consultation with the individuals described in
4619 Subsection (4), shall:
4619 (a) develop recommendations for statutory changes to improve patient access to prescribed drugs in the
4621 state; and
4621 (b) report the recommendations developed under Subsection (5)(a) to the Health and Human Services
4623 Interim Committee.

4624 Section 58. Section **58-24b-102** is amended to read:

4626 **58-24b-102. Definitions.**

4628 As used in this chapter:

4630 (1) "Animal physical therapy" means practicing physical therapy or physiotherapy on an animal.
4632 (2) "Board" means the Physical Therapies Licensing Board, created in Section 58-24b-201.
4634 (3) "Consultation by telecommunication" means the provision of expert or professional advice by a
4636 physical therapist who is licensed outside of Utah to a licensed physical therapist or a health care
4638 provider by telecommunication or electronic communication.
4640 (4) "General supervision" means supervision and oversight of an individual by a licensed physical
therapist when the licensed physical therapist is immediately available in person, by telephone, or by
electronic communication to assist the individual.
4642 (5) "Licensed physical therapist" means an individual licensed under this chapter to engage in the
4644 practice of physical therapy.
4646 (6) "Licensed physical therapist assistant" means an individual licensed under this chapter to engage in
4648 the practice of physical therapy, subject to the provisions of Subsection 58-24b-401(2)(a).
4650 (7) "Licensing examination" means a nationally recognized physical therapy examination that is
4652 approved by the division, in consultation with the board.

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(8) "On-site supervision" means supervision and oversight of an individual by a licensed physical therapist or a licensed physical therapist assistant when the licensed physical therapist or licensed physical therapist assistant is:

- 4643 (a) continuously present at the facility where the individual is providing services;
- 4644 (b) immediately available to assist the individual; and
- 4645 (c) regularly involved in the services being provided by the individual.

4646 (9) "Physical impairment" means:

- 4647 (a) a mechanical impairment;
- 4648 (b) a physiological impairment;
- 4649 (c) a developmental impairment;
- 4650 (d) a functional limitation;
- 4651 (e) a disability;
- 4652 (f) a mobility impairment; or
- 4653 (g) a bodily malfunction.

4654 (10)

4655 (a) "Physical therapy" or "physiotherapy" means:

- 4656 (i) examining, evaluating, and testing an individual who has a physical impairment or injury;
- 4657 (ii) identifying or labeling a physical impairment or injury;
- 4658 (iii) formulating a therapeutic intervention plan for the treatment of a physical impairment, injury, or pain;
- 4660 (iv) assessing the ongoing effects of therapeutic intervention for the treatment of a physical impairment or injury;
- 4662 (v) treating or alleviating a physical impairment by designing, modifying, or implementing a therapeutic intervention;
- 4664 (vi) reducing the risk of an injury or physical impairment;
- 4665 (vii) providing instruction on the use of physical measures, activities, or devices for preventative and therapeutic purposes;
- 4667 (viii) promoting and maintaining health and fitness;
- 4668 (ix) the administration of a prescription drug pursuant to Section 58-24b-403;

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- (x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in Subsections (10)(a)(i) through (ix) in relation to an animal, in accordance with the requirements of Section 58-24b-405;
- 4672 (xi) engaging in administration, consultation, education, and research relating to the practices described in this Subsection (10)(a); or
- 4674 (xii) applying dry needling to enhance an individual's physical performance if the physical therapy practitioner has received the necessary training as determined by division rule in collaboration with the board.
- 4677 (b) "Physical therapy" or "physiotherapy" does not include:
 - 4678 (i) diagnosing disease;
 - 4679 (ii) performing surgery;
 - 4680 (iii) performing acupuncture;
 - 4681 (iv) taking x-rays; or
 - 4682 (v) prescribing or dispensing a drug, as defined in Section [58-37-2] 58-37-101.
- 4683 (11) "Physical therapy aide" means an individual who:
 - 4684 (a) is trained, on-the-job, by a licensed physical therapist; and
 - 4685 (b) provides routine assistance to a licensed physical therapist or licensed physical therapist assistant, while the licensed physical therapist or licensed physical therapist assistant practices physical therapy, within the scope of the licensed physical therapist's or licensed physical therapist assistant's license.
- 4689 (12) "Recognized accreditation agency" means an accreditation agency that:
 - 4690 (a) grants accreditation, nationally, in the United States of America; and
 - 4691 (b) is approved by the division, in consultation with the board.
- 4692 (13)
 - (a) "Testing" means a standard method or technique used to gather data regarding a patient that is generally and nationally accepted by physical therapists for the practice of physical therapy.
 - 4695 (b) "Testing" includes measurement or evaluation of:
 - 4696 (i) muscle strength, force, endurance, or tone;
 - 4697 (ii) cardiovascular fitness;
 - 4698 (iii) physical work capacity;
 - 4699 (iv) joint motion, mobility, or stability;

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4700 (v) reflexes or autonomic reactions;

4701 (vi) movement skill or accuracy;

4702 (vii) sensation;

4703 (viii) perception;

4704 (ix) peripheral nerve integrity;

4705 (x) locomotor skills, stability, and endurance;

4706 (xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;

4707 (xii) posture;

4708 (xiii) body mechanics;

4709 (xiv) limb length, circumference, and volume;

4710 (xv) thoracic excursion and breathing patterns;

4711 (xvi) activities of daily living related to physical movement and mobility;

4712 (xvii) functioning in the physical environment at home or work, as it relates to physical movement and mobility; and

4714 (xviii) neural muscular responses.

4715 (14)

4717 (a) "Trigger point dry needling" means the stimulation of a trigger point using a dry needle to treat neuromuscular pain and functional movement deficits.

4719 (b) "Trigger point dry needling" does not include the stimulation of auricular or distal points.

4719 (15) "Therapeutic intervention" includes:

4720 (a) therapeutic exercise, with or without the use of a device;

4721 (b) functional training in self-care, as it relates to physical movement and mobility;

4722 (c) community or work integration, as it relates to physical movement and mobility;

4723 (d) manual therapy, including:

4724 (i) soft tissue mobilization;

4725 (ii) therapeutic massage; or

4726 (iii) joint mobilization, as defined by the division, by rule;

4727 (e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic, protective, or supportive device;

4729 (f) airway clearance techniques, including postural drainage;

4730 (g) integumentary protection and repair techniques;

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4731 (h) wound debridement, cleansing, and dressing;

4732 (i) the application of a physical agent, including:

4733 (i) light;

4734 (ii) heat;

4735 (iii) cold;

4736 (iv) water;

4737 (v) air;

4738 (vi) sound;

4739 (vii) compression;

4740 (viii) electricity; and

4741 (ix) electromagnetic radiation;

4742 (j) mechanical or electrotherapeutic modalities;

4743 (k) positioning;

4744 (l) instructing or training a patient in locomotion or other functional activities, with or without an assistive device;

4746 (m) manual or mechanical traction;

4747 (n) correction of posture, body mechanics, or gait; and

4748 (o) trigger point dry needling, under the conditions described in Section 58-24b-505.

4781 Section 59. Section **58-28-502** is amended to read:

58-28-502. Unprofessional conduct.

4751 (1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

4752 (a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

4754 (b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

4756 (c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

4759 (d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

4761 (e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

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- (f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;
- 4765 (g) violating ~~[Chapter 37, Utah Controlled Substances Act]~~ Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;
- 4768 (h) delegating to unlicensed assistive personnel:
 - 4769 (i) a task that violates the standards of the profession or Subsection (2); or
 - 4770 (ii) the administration of anesthesia or sedation if the delegating veterinarian is not providing direct supervision of the administration; and
 - 4772 (i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.
- 4774 (2)
 - (a) "Unprofessional conduct" does not include the following:
 - 4775 (i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;
 - 4779 (ii) delegating to a state certified veterinary technician or a veterinary technician, while under the direct or indirect supervision of a veterinarian, patient care and treatment that requires a technical understanding of veterinary medicine if the veterinarian provides written or oral instructions to the state certified veterinary technician;
 - 4784 (iii) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession;
 - 4787 (iv) delegating to an individual described in Subsection 58-28-307(16), under the direct supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating; or
 - 4790 (v) discussing the effects of the following on an animal with the owner of an animal:
 - 4791 (A) a cannabinoid or industrial hemp product, as those terms are defined in Section 4-41-102; or
 - 4793 (B) THC or medical cannabis, as those terms are defined in Section 26B-4-201.
 - 4794 (b) The delegation of tasks permitted under Subsections (2)(a)(i) through (iv) does not include:
 - 4796 (i) diagnosing;
 - 4797 (ii) prognosing;
 - 4798 (iii) surgery; or
 - 4799 (iv) prescribing drugs, medicines, or appliances.

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4800 (3) Notwithstanding any provision of this section, a veterinarian is not prohibited from engaging in a discussion described in Subsection (2)(a)(v).

4834 Section 60. Section **58-31b-503** is amended to read:

4835 **58-31b-503. Penalties and administrative actions for unlawful conduct and unprofessional conduct.**

4805 (1) Any person who violates the unlawful conduct provision specifically defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.

4807 (2) Any person who violates any of the unlawful conduct provisions specifically defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A misdemeanor.

4810 (3) Any person who violates any of the unlawful conduct provisions specifically defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B misdemeanor.

4812 (4)

4814 (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts of unprofessional or unlawful conduct, the division may:

4815 (i) assess administrative penalties; and

4815 (ii) take any other appropriate administrative action.

4816 (b) An administrative penalty imposed pursuant to this section shall be deposited into the "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.

4818 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

4822 (6)

4822 (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division of Professional Licensing Act, Chapter 37, Utah Controlled Substances Act Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a provision described in a statute previously in effect in this state that is the same or substantially similar to a provision described in Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division of Professional Licensing Act, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

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4829 (i) promptly issue a citation to the person according to this chapter and any pertinent administrative
rules;

4831 (ii) attempt to negotiate a stipulated settlement; or

4832 (iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G,
Chapter 4, Administrative Procedures Act.

4834 (b) Any person who is in violation of a provision described in Subsection (6)(a), as evidenced by an
uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding
may ~~be assessed a fine~~:

4837 (i) ~~pursuant to~~ be assessed a fine in accordance with this Subsection (6) of up to \$10,000 per single
violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a
fine schedule established by rule; and

4840 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered to cease and
desist from violating a provision ~~of Sections 58-31b-501 and 58-31b-502, Chapter 1, Division~~
~~of Professional Licensing Act, {f} Chapter 37, Utah Controlled Substances Act} {Chapter 37,~~
~~Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances}~~
~~described in Subsection (6)(a)~~, or any rule or order issued with respect to ~~those provisions~~ a
provision described in Subsection (6)(a).

4846 (c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in
Section 58-31b-401 may not be assessed through a citation.

4848 (d) Each citation issued under this section shall:

4849 (i) be in writing; and

4850 (ii) clearly describe or explain:

4851 (A) the nature of the violation, including a reference to the provision of the chapter, rule, or order
alleged to have been violated;

4853 (B) that the recipient must notify the division in writing within 20 calendar days of service of
the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4,
Administrative Procedures Act; and

4856 (C) the consequences of failure to timely contest the citation or to make payment of any fines assessed
by the citation within the time specified in the citation; and

4859 (iii) be served upon any person upon whom a summons may be served:

4860 (A) in accordance with the Utah Rules of Civil Procedure;

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4861 (B) personally or upon the person's agent by a division investigator or by any person specially
designated by the director; or

4863 (C) by mail.

4864 (e) If within 20 calendar days from the service of a citation, the person to whom the citation was issued
fails to request a hearing to contest the citation, the citation becomes the final order of the division
and is not subject to further agency review. The period to contest the citation may be extended by
the division for cause.

4868 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a
licensee who fails to comply with the citation after it becomes final.

4870 (g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground
for denial of license.

4872 (h) No citation may be issued under this section after the expiration of one year following the date on
which the violation that is the subject of the citation is reported to the division.

4875 (7)

4876 (a) The director may collect a penalty that is not paid by:

4877 (i) referring the matter to a collection agency; or

4877 (ii) bringing an action in the district court of the county where the person against whom the penalty
is imposed resides or in the county where the office of the director is located.

4880 (b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the
director in an action to collect a penalty.

4882 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by
the division to collect a penalty.

4919 Section 61. Section **58-37-101** is renumbered and amended to read:

CHAPTER 37. Controlled Substances

Part 1. General Provisions

[58-37-2] 58-37-101. Definitions.

4889 (1) As used in this chapter:

4890 (a) "Administer" means the direct application of a controlled substance, whether by injection,
inhalation, ingestion, or any other means, to the body of a patient or research subject by:

4893 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

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4895 (ii) the patient or research subject at the direction, and in the presence, of the practitioner.

4897 (b)

(i) "Agent" means an authorized person who acts on behalf of, or at the direction of, a manufacturer, distributor, or practitioner.

4899 (ii) ~~[but]~~ "Agent" does not include a motor carrier~~[,]~~ or public warehouseman, or an employee of [any of them] a motor carrier or public warehouseman.

4901 (c) "Consumption" means ingesting or having any measurable amount of a controlled substance in ~~[a person's]~~ an individual's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

4904 [(d) ~~"Continuing criminal enterprise"~~ means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.]

4916 [(e)] (d) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section ~~[58-37-3]~~ 58-37-107.

4918 [(f)] (e)

(i) "Controlled substance" means a drug or substance:

4919 (A) included in Schedules I, II, III, IV, or V of Section ~~[58-37-4]~~ 58-37-108;

4920 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

4922 (C) that is a controlled substance analog; or

4923 (D) listed in Section ~~[58-37-4.2]~~ 58-37-109.

4924 (ii) "Controlled substance" does not include:

4925 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

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4927 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention
of disease in human or other animals, which contains ephedrine, pseudoephedrine,
norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or
furnished as an over-the-counter medication without prescription; or

4932 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or
extracts, which:

4934 (I) are not otherwise regulated by law; and

4935 (II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4938 [f] (f)

(i) "Controlled substance analog" means:

4939 (A) a substance the chemical structure of which is substantially similar to the chemical structure of
a controlled substance listed in Schedules I and II of Section [58-37-4] 58-37-108, a substance
listed in Section [58-37-4.2] 58-37-109, or in Schedules I and II of the federal Controlled
Substances Act, Title II, P.L. 91-513;

4944 (B) a substance that has a stimulant, depressant, or hallucinogenic effect on the central nervous
system substantially similar to the stimulant, depressant, or hallucinogenic effect on the
central nervous system of controlled substances listed in Schedules I and II of Section
[58-37-4] 58-37-108, substances listed in Section [58-37-4.2] 58-37-109, or substances listed in
Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

4950 (C) A substance that, with respect to a particular individual, is represented or intended to have
a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially
similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of
controlled substances listed in Schedules I and II of Section [58-37-4] 58-37-108, substances
listed in Section [58-37-4.2] 58-37-109, or substances listed in Schedules I and II of the federal
Controlled Substances Act, Title II, P.L. 91-513.

4957 (ii) "Controlled substance analog" does not include:

4958 (A) a controlled substance currently scheduled in Schedules I through V of Section
[58-37-4] 58-37-108;

4960 (B) a substance for which there is an approved new drug application;

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(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

4965 (D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

4967 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

4972 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4977 [({h})] (g)

(i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

4979 (A) this chapter;

4980 [({B}) Chapter 37a, Utah Drug Paraphernalia Act;]

4981 [({C}) Chapter 37b, Imitation Controlled Substances Act;]

4982 [({D}) (B) [Chapter 37c, Utah Controlled Substance Precursor Act; or] Chapter 37c, Controlled Substance Precursors;

4984 (C) Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;

4985 (D) Title 76, Chapter 18, Part 3, Offenses Concerning Drug Paraphernalia;

4986 (E) Title 76, Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances;

4988 (F) Title 76, Chapter 18, Part 5, Clandestine Drug Labs; or

4989 (G) a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in Subsections (1)(g)(i)(A) through (F); or

4992 [({E}) Chapter 37d, Clandestine Drug Lab Act; or]

4993 (ii) for any offense under the laws of the United States and any other state [which] that, if committed in this state, would be an offense under[:] Subsection (1)(g)(i).

4995 [({A}) this chapter;]

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4996 [({B}) Chapter 37a, Utah Drug Paraphernalia Act;]
4997 [({C}) Chapter 37b, Imitation Controlled Substances Act;]
4998 [({D}) Chapter 37c, Utah Controlled Substance Precursor Act; or]
4999 [({E}) Chapter 37d, Clandestine Drug Lab Act.]

5000 [({f})] (h) "Counterfeit substance" means:
5001 (i) any controlled substance or container or labeling of any controlled substance that:
5002 (A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance [which] that falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and
5008 (B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection [({1})(i)(i)(A)] (1)(h)(i)(A) or the appearance of the container of that controlled substance; or
5012 (ii) any substance other than under Subsection [({1})(i)(i)] (1)(h)(i) that:
5013 (A) is falsely represented to be any legally or illegally manufactured controlled substance; and
5015 (B) a reasonable person would believe to be a legal or illegal controlled substance.
5016 [({f})] (i) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.
5018 [({k})] (j) "Department" means the Department of Commerce.
5019 [({f})] (k) "Depressant or stimulant substance" means:
5020 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;
5022 (ii) a drug which contains any quantity of:
5023 (A) amphetamine or any of its optical isomers;
5024 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
5025 (C) any substance [which] that the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found, and by regulation designated, habit-forming because of its stimulant effect on the central nervous system;
5029 (iii) lysergic acid diethylamide; or
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(iv) any drug [which] that contains any quantity of a substance [which] that the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

5035 [({m})] (l) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

5040 [({n})] (m) "Dispenser" means a pharmacist who dispenses a controlled substance.

5041 [({o})] (n) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

5043 [({p})] (o) "Distributor" means a person who distributes controlled substances.

5044 [({q})] (p) "Division" means the Division of Professional Licensing created in Section 58-1-103.

5046 [({r})] (q)

(i) "Drug" means:

5047 (A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

5052 (B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

5055 (C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

5057 (D) substances intended for use as a component of any substance specified in Subsections [({l})({r})({i})
({A})] (1)(q)(i)(A), (B), and (C).

5059 (ii) "Drug" does not include dietary supplements.

5060 (iii) "Drug" includes a food intended for human consumption that intentionally contains a vaccine or vaccine material as provided in Section 4-5-107.

5062 [({s})] (r) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so

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dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

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[(t)] (s)

(i) "Food" means:

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(A) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

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(B) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food.

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(ii) Any particular use of a food is a special dietary use regardless of the nutritional purposes.

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[(t)] (t) "Immediate precursor" means a substance [which] that the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or [which] that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

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[(v)] "Indian" means a member of an Indian tribe.]

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[(w)] "Indian religion" means a religion:]

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[(i)] the origin and interpretation of which is from within a traditional Indian culture or community; and]

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[(ii)] that is practiced by Indians.]

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[(x)] "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.]

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[(y)] (u) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

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5098 [({z})] (v) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

5101 [(aa)] (w)

(i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:

5103 (A) seeds;

5104 (B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;

5106 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin;

5108 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis [which] that are chemically indistinguishable and pharmacologically active; and

5111 (E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.

5113 (ii) "Marijuana" does not include:

5114 (A) the mature stalks of the plant;

5115 (B) fiber produced from the stalks;

5116 (C) oil or cake made from the seeds of the plant;

5117 (D) except as provided in Subsection [(1)(aa)(i)] (1)(w)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

5120 (E) the sterilized seed of the plant [which] that is incapable of germination;

5121 (F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section [58-37-4] 58-37-108 or in the federal Controlled Substances Act, Title II, P.L. 91-513; or

5126 (G) transportable industrial hemp concentrate as that term is defined in Section 4-41-102.

5128 [(bb)] (x) "Money" means officially issued coin and currency of the United States or any foreign country.

5130

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[{ee}] (y) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

5134 (i) opium, coca leaves, and opiates;

5135 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

5137 (iii) opium poppy and poppy straw; or

5138 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection [(1)(ee)(i)] (1)(y) (i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves [which] that do not contain cocaine or ecgonine.

5143 [(dd)] (z) "Negotiable instrument" means [documents] a document, containing an unconditional promise to pay a sum of money, [which are] that is legally transferable to another party by endorsement or delivery.

5146 [{ee}] (aa) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

5149 [{ff}] (bb) "Opium poppy" means the plant of the species papaver somniferum L., except the seeds of the plant.

5151 [{gg}] (cc) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

5153 [{hh}] (dd) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

5155 [{ii}] (ee) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over the controlled substance.

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5167 [ff] "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

5172 [gg] "Prescribe" means to issue a prescription:

5173 (i) orally or in writing; or

5174 (ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

5176 [hh] "Prescription" means an order issued:

5177 (i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

5179 (ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

5181 [ii] "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

5183 [jj] "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

5185 [kk] "State" means the state of Utah.

5186 [ll] "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

5190 (2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

5227 Section 62. Section **58-37-102** is renumbered and amended to read:

5229 **[58-37-18] 58-37-102. Applicability of chapter -- Uniform construction.**

5196 (1)

(a) Prosecution for a violation of any law or offense occurring [prior to the effective date of this act shall not be] before January 1, 1972, is not affected by this [act;] chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, provided, that sentences imposed after [the effective date of this act] January 1, 1972, may not exceed the maximum terms specified and the judge has discretion to impose any minimum sentence.

5202

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(b) Civil seizures, forfeitures, and injunctive proceedings commenced [prior to the effective date of this act shall not be] before January 1, 1972, are not affected by this [act] chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

5206

(c)

(i) All administrative proceedings pending before any agency or court on [the effective date of this act] January 1, 1972, shall be continued and brought to final determination in accordance with laws and regulations in effect [prior to the effective date of this act] before January 1, 1972.

5210

(ii) Drugs placed under control [prior to enactment of this act which] before January 1, 1972, that are not listed within schedules I through V shall be automatically controlled and listed in the appropriate schedule without further proceedings.

5213

(2) [This act does not affect] Neither this chapter nor Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, affects rights and duties that mature, penalties that are incurred, and proceedings that are begun before [its effective date] January 1, 1972.

5216

(3) This [act] chapter and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, shall be construed to effectuate [its] the general purpose to make uniform the law of those states [which] that enact it where laws are similar to this [act] chapter and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

5255

Section 63. Section 63 is enacted to read:

5256

58-37-103. Restrictions on less restrictive ordinances.

A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of:

5224

(1) this chapter; or

5225

(2) Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

5261

Section 64. Section 64 is enacted to read:

5262

58-37-104. Severability.

If any provision, or the application of any provision to a person or circumstance, of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, is held invalid, the remainder of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, shall be given effect without the invalid provision or application.

5267

Section 65. Section 58-37-105 is renumbered and amended to read:

5269

[58-37-6] 58-37-105. Division responsibilities -- Licensing -- Records required.

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5236 (1)

(a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

5240 (b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

5242 (2)

(a)

(i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

5249 (ii)

(A) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule.

5251 (B) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles [it] the division administers.

5253 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

5260 (c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

5262 (i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an

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inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

5269 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses a controlled substance in the usual course of the person's business or employment; and

5272 (iii) an ultimate user, or a person who possesses any controlled substance pursuant to a lawful order of a practitioner.

5274 (d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if waiving the license requirement is consistent with public health and safety.

5278 (e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

5281 (f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

5283 (3)

(a)

(i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless [it] the division determines that issuance of a license is inconsistent with the public interest.

5288 (ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

5290 (iii) In determining public interest under this Subsection (3)(a), the division shall consider whether the applicant has:

5292 (A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into channels other than legitimate medical, scientific, or industrial channels;

5295 (B) complied with applicable state and local law;

5296 (C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

5298 (D) past experience in the manufacture of controlled dangerous substances;

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5299 (E) established effective controls against diversion; and

5300 (F) complied with any other factors that the division establishes that promote the public health and safety.

5302 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

5305 (c)

(i) [Praetitioners] A practitioner shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if [they are] the practitioner is authorized to administer, dispense, or conduct research under the laws of this state.

5309 (ii) The division need not require a separate license for [practitioners] a practitioner engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

5313 (iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division [prior to] before conducting research.

5317 (iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

5322 (v) [Practitioners] A practitioner registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon providing the division with evidence of federal registration.

5325 (d) Compliance by [manufacturers, producers, and distributors] a manufacturer, producer, or distributor with the provisions of federal law respecting registration, excluding fees, entitles [them] the manufacturer, producer, or distributor to be licensed under this chapter.

5329 (e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

5333 (4)

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(a) Any license issued [pursuant to] under Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in this chapter or Title 76, Chapter 18, Offenses Concerning Controlled Substances, or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c)

(i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Professional Licensing

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Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

5364 (ii) Nothing in this Subsection (4)(c) gives the Division of Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

5369 (d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if [it] the division finds there is an imminent danger to the public health or safety.

5372 (ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

5375 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

5378 (ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

5382 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

5383 (f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

5385 (g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

5391 (5) (a) A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

5394 (b)

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- (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other individual who is authorized to administer or professionally use a controlled substance, shall keep a record of the drugs received by the individual and a record of all drugs administered, dispensed, or professionally used by the individual otherwise than by a prescription.
- 5399 (ii) An individual using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the individual keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by the individual, and of the dates when purchased or prepared.
- 5404 (6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.
- 5407 [(7)
 - (a) ~~An individual may not write or authorize a prescription for a controlled substance unless the individual is:~~
 - 5409 [(i) ~~a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and~~]
 - 5411 [(ii) ~~licensed under this chapter or under the laws of another state having similar standards.~~]
 - 5413 [(b) ~~An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.~~]
- 5416 [(e)
 - (i) ~~A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.~~]
 - 5419 [(ii) ~~That written prescription shall be made in accordance with Subsektion (7)(a) and in conformity with Subsektion (7)(d).~~]
 - 5421 [(iii) ~~In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmaey.~~]
 - 5424 [(iv) ~~Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsektion (7)(d).~~]
 - 5426 [(d) ~~Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by~~]

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the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:]

- 5431 [(i) the name, address, and registry number of the prescriber;]
- 5432 [(ii) the name, address, and age of the person to whom or for whom the prescription is issued;]
- 5434 [(iii) the date of issuance of the prescription; and]
- 5435 [(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.]
- 5437 [(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:]
 - 5439 [(i) the individual who writes the prescription is licensed under Subsection (2); and]
 - 5440 [(ii) the prescribed controlled substance is to be used in research.]
- 5441 [(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).]
 - 5443 [(i) A prescription for a Schedule II substance may not be refilled.]
 - 5444 [(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.]
 - 5446 [(iii)
 - 5447 (A) A prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.]
 - 5450 [(B) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.]
 - 5453 [(C) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).]
 - 5455 [(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.]
 - 5459 [(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.]
 - 5462 [(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the

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prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.]

5466 [(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:]

5468 [(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;]

5470 [(B) no one prescription may exceed a 30-day supply; and]

5471 [(C) a second or third prescription shall include the date of issuance and the date for dispensing.]

5473 [(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:]

5476 [(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);]

5481 [(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;]

5483 [(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and]

5487 [(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.]

5491 [(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of Subsection (7)(h), "child" has the same meaning as defined in Section 80-1-102, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.]

5498

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[~~(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.~~]

5501 [~~(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.~~]

5505 [~~(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.~~]

5509 [~~(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.~~]

5511 [~~(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.~~]

5514 [~~(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.~~]

5516 [~~(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.~~]

5520 [~~(8)~~]
(a)
(i) ~~Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.~~
5525 [~~(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).~~]
5528 [~~(iii) The director may collect a penalty that is not paid by:~~]
5529 [~~(A) referring the matter to a collection agency; or~~]
5530 [~~(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.~~]
5533

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[~~(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.~~]

5535 [~~(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.~~]

5537 [~~(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:~~]

5539 [~~(i) upon first conviction, guilty of a class B misdemeanor;~~]

5540 [~~(ii) upon second conviction, guilty of a class A misdemeanor; and~~]

5541 [~~(iii) on third or subsequent conviction, guilty of a third degree felony.~~]

5542 [~~(e) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.~~]

5544 [~~(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.~~]

5547 [~~(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.~~]

5551 [~~(11)~~]

~~(a) As used in this Subsection (11):~~

5552 [~~(i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that is written to continue for longer than 30 consecutive days.~~]

5554 [~~(ii) "Database" means the controlled substance database created in Section 58-37f-201.~~]

5556 [~~(b) A practitioner who issues a high risk prescription to a patient shall, before issuing the high risk prescription to the patient, verify in the database that the patient does not have a high risk prescription from a different practitioner that is currently active.~~]

5559 [~~(e) If the database shows that the patient has received a high risk prescription that is currently active from a different practitioner, the practitioner may not issue a high risk prescription to the patient unless the practitioner:~~]

5562 [~~(i) contacts and consults with each practitioner who issued a high risk prescription that is currently active to the patient;~~]

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5564 [(ii) documents in the patient's medical record that the practitioner made contact with each practitioner
5565 in accordance with Subsection (11)(e)(i); and]

5566 [(iii) documents in the patient's medical record the reason why the practitioner believes that the patient
5567 needs multiple high risk prescriptions from different practitioners.]

5569 [(d) A practitioner shall satisfy the requirement described in Subsection (11)(e) in a timely manner,
5570 which may be after the practitioner issues the high risk prescription to the patient.]

5610 Section 66. Section **58-37-106** is renumbered and amended to read:

5612 **[58-37-17] 58-37-106. Judicial review.**

5575 (1) [Any] A person aggrieved by a department's final order may obtain judicial review.

5576 (2) Venue for judicial review of an informal adjudicative [proceedings] proceeding is in the district
5577 court of Salt Lake County.

5616 Section 67. Section **58-37-107** is renumbered and amended to read:

5618 **[58-37-3] 58-37-107. Controlled substances.**

5581 (1) All substances listed in Section [58-37-4 or 58-37-4.2] 58-37-108 or 58-37-109 are controlled.

5583 (2) All substances listed in the federal Controlled Substances Act, Title II, P.L. 91-513, are controlled.

5623 Section 68. Section **58-37-108** is renumbered and amended to read:

5625 **[58-37-4] 58-37-108. Schedules of controlled substances -- Schedules I through V -- Findings
5626 required -- Specific substances included in schedules.**

5589 (1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and
5590 V, which consist of substances listed in this section.

5591 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official
5592 name, common or usual name, chemical name, or brand name designated:

5593 (a) Schedule I:

5594 (i) Unless specifically excepted or unless listed in another schedule, any of the following opiates,
5595 including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when
5596 the existence of the isomers, esters, ethers, and salts is possible within the specific chemical
5597 designation:

5598 (A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

5600 (B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

5601 (C) Acetylmethadol;

5602 (D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

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5603 (E) Allylprodine;

5604 (F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

5606 (G) Alphameprodine;

5607 (H) Alphamethadol;

5608 (I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

5610 (J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);

5612 (K) Benzylpiperazine;

5613 (L) Benzethidine;

5614 (M) Betacetylmethadol;

5615 (N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4- piperidinyl]-N-phenylpropanamide);

5617 (O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

5619 (P) Betameprodine;

5620 (Q) Betamethadol;

5621 (R) Betaprodine;

5622 (S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

5623 (T) Clonitazene;

5624 (U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

5626 (V) Dextromoramide;

5627 (W) Diampromide;

5628 (X) Diethylthiambutene;

5629 (Y) Difenoxin;

5630 (Z) Dimenoxadol;

5631 (AA) Dimepheptanol;

5632 (BB) Dimethylthiambutene;

5633 (CC) Dioxaphetyl butyrate;

5634 (DD) Dipipanone;

5635 (EE) Ethylmethylthiambutene;

5636 (FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);

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5638 (GG) Etonitazene;
5639 (HH) Etoxeridine;
5640 (II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl] furan-2-carboxamide);
5642 (JJ) Furethidine;
5643 (KK) Hydroxypethidine;
5644 (LL) Ketobemidone;
5645 (MM) Levomoramide;
5646 (NN) Levophenacylmorphan;
5647 (OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);
5649 (PP) Morpheridine;
5650 (QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
5651 (RR) Noracymethadol;
5652 (SS) Norlevorphanol;
5653 (TT) Normethadone;
5654 (UU) Norpipanone;
5655 (VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl] propanamide);
5657 (WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
5659 (XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxy piperidine);
5660 (YY) Phenadoxone;
5661 (ZZ) Phenampromide;
5662 (AAA) Phenibut;
5663 (BBB) Phenomorphan;
5664 (CCC) Phenoperidine;
5665 (DDD) Piritramide;
5666 (EEE) Proheptazine;
5667 (FFF) Properidine;
5668 (GGG) Propiram;
5669 (HHH) Racemoramide;
5670 (III) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

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5672 (JJJ) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;

5673 (KKK) Tianeptine;

5674 (LLL) Tilidine;

5675 (MMM) Trimeperidine;

5676 (NNN) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide);

5678 (OOO) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

5680 (PPP) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

5682 (QQQ) 4-cyano CUMYL-BUTINACA.

5683 (ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

5687 (A) Acetorphine;

5688 (B) Acetyldihydrocodeine;

5689 (C) Benzylmorphine;

5690 (D) Codeine methylbromide;

5691 (E) Codeine-N-Oxide;

5692 (F) Cyprenorphine;

5693 (G) Desomorphine;

5694 (H) Dihydromorphine;

5695 (I) Drotebanol;

5696 (J) Etorphine (except hydrochloride salt);

5697 (K) Heroin;

5698 (L) Hydromorphenol;

5699 (M) Methyldesorphine;

5700 (N) Methylhydromorphone;

5701 (O) Morphine methylbromide;

5702 (P) Morphine methylsulfonate;

5703 (Q) Morphine-N-Oxide;

5704 (R) Myrophine;

5705 (S) Nicocodeine;

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5706 (T) Nicomorphine;
5707 (U) Normorphine;
5708 (V) Pholcodine; and
5709 (W) Thebacon.

5710 (iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains any quantity of the following hallucinogenic substances, or [which] that contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

5717 (A) Alpha-ethyltryptamine, some trade or other names: tryptamine; Monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;

5719 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

5721 (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

5724 (D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;

5726 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

5727 (F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;

5729 (G) 5-methoxy-3,4-methylenedioxymethamphetamine;

5730 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";

5732 (I) 3,4-methylenedioxymethamphetamine;

5733 (J) 3,4-methylenedioxymethamphetamine (MDMA);

5734 (K) 3,4-methylenedioxymethamphetamine, also known as N-ethyl- α -methyl-3,4(methylenedioxymethamphetamine), N-ethyl MDA, MDE, MDEA;

5737 (L) N-hydroxy-3,4-methylenedioxymethamphetamine, also known as N-hydroxy- α -methyl-3,4(methylenedioxymethamphetamine), and N-hydroxy MDA;

5740 (M) 3,4,5-trimethoxy amphetamine;

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(N) Bufotenine, some trade and other names: 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

5744 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

5745 (P) Dimethyltryptamine, some trade or other names: DMT;

5746 (Q) Ibogaine, some trade and other names: 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

5749 (R) Lysergic acid diethylamide;

5750 (S) Marijuana;

5751 (T) Mescaline;

5752 (U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

5755 (V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

5760 (W) N-ethyl-3-piperidyl benzilate;

5761 (X) N-methyl-3-piperidyl benzilate;

5762 (Y) Psilocybin;

5763 (Z) Psilocyn;

5764 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis (cannabis plant), except for marijuana as defined in Subsection [58-37-2(1)(aa)(i)(E)] 58-37-101(1)(w)(i)(E), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Δ 1 cis or trans tetrahydrocannabinol, and their optical isomers Δ 6 cis or trans tetrahydrocannabinol, and their optical isomers Δ 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

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(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

5779 (CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

5781 (DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

5784 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

5785 (iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

5790 (A) Mecloqualone; and

5791 (B) Methaqualone.

5792 (v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

5795 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

5797 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

5799 (C) Fenethylline;

5800 (D) Methcathinone, some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

5805 (E) (\pm)cis-4-methylaminorex ((\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

5806 (F) N-ethylamphetamine; and

5807

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(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

5809 (vi) Any material, compound, mixture, or preparation [which] that contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

5812 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

5813 (B) N-[1- (2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

5814 (vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

5818 (b) Schedule II:

5819 (i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

5823 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

5826 (I) Raw opium;

5827 (II) Opium extracts;

5828 (III) Opium fluid;

5829 (IV) Powdered opium;

5830 (V) Granulated opium;

5831 (VI) Tincture of opium;

5832 (VII) Codeine;

5833 (VIII) Ethylmorphine;

5834 (IX) Etorphine hydrochloride;

5835 (X) Hydrocodone;

5836 (XI) Hydromorphone;

5837 (XII) Metopon;

5838 (XIII) Morphine;

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5839 (XIV) Oxycodone;

5840 (XV) Oxymorphone; and

5841 (XVI) Thebaine;

5842 (B) Any salt, compound, derivative, or preparation [which] that is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

5846 (C) Opium poppy and poppy straw;

5847 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation [which] that is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

5854 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form [which] that contains the phenanthrene alkaloids of the opium poppy.

5857 (ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:

5862 (A) Alfentanil;

5863 (B) Alphaprodine;

5864 (C) Anileridine;

5865 (D) Bezitramide;

5866 (E) Bulk dextropropoxyphene (nondosage forms);

5867 (F) Carfentanil;

5868 (G) Dihydrocodeine;

5869 (H) Diphenoxylate;

5870 (I) Fentanyl;

5871 (J) Isomethadone;

5872 (K) Levo-alphacetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

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5874 (L) Levomethorphan;

5875 (M) Levorphanol;

5876 (N) Metazocine;

5877 (O) Methadone;

5878 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

5879 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

5881 (R) Pethidine (meperidine);

5882 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

5883 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

5884 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

5885 (V) Phenazocine;

5886 (W) Piminodine;

5887 (X) Racemethorphan;

5888 (Y) Racemorphan;

5889 (Z) Remifentanil; and

5890 (AA) Sufentanil.

5891 (iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation ~~[which]~~ that contains any quantity of the following substances having a stimulant effect on the central nervous system:

5894 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

5895 (B) Methamphetamine, its salts, isomers, and salts of its isomers;

5896 (C) Phenmetrazine and its salts; and

5897 (D) Methylphenidate.

5898 (iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation ~~[which]~~ that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

5903 (A) Amobarbital;

5904 (B) Glutethimide;

5905 (C) Pentobarbital;

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5906 (D) Phencyclidine;

5907 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and

5909 (F) Secobarbital.

5910 (v)

(A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [whieh] that contains any quantity of Phenylacetone.

5913 (B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

5915 (vi) Nabilone, another name for nabilone: (\pm)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

5918 (vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

5922 (c) Schedule III:

5923 (i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [whieh] that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

5929 (A) [Those-] those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or [whieh] that is the same except that it contains a lesser quantity of controlled substances;

5936 (B) Benzphetamine;

5937 (C) Chlorphentermine;

5938 (D) Clortermine; and

5939 (E) Phendimetrazine.

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(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains any quantity of the following substances having a depressant effect on the central nervous system:

5943 (A) [Any] any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients [which] that are not listed in any schedule;

5946 (B) [Any] any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs [which] that is approved by the United States Food and Drug Administration for marketing only as a suppository;

5950 (C) [Any] any substance [which] that contains any quantity of a derivative of barbituric acid or any salt of any of them;

5952 (D) Chlorhexadol;

5953 (E) Buprenorphine;

5954 (F) [Any] any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

5957 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

5959 (H) Lysergic acid;

5960 (I) Lysergic acid amide;

5961 (J) Methyprylon;

5962 (K) Sulfondiethylmethane;

5963 (L) Sulfonethylmethane;

5964 (M) Sulfonmethane; and

5965 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

5971 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-

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trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

5976 (iv) Nalorphine.

5977 (v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

5981 (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

5984 (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

5987 (C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

5990 (D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

5993 (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

5996 (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

5999 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

6002 (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

6005 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

6008 (A) Boldenone;

6009 (B) Chlorotestosterone (4-chlortestosterone);

6010 (C) Clostebol;

6011 (D) Dehydrochlormethyltestosterone;

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- 6012 (E) Dihydrotestosterone (4-dihydrotestosterone);
- 6013 (F) Drostanolone;
- 6014 (G) Ethylestrenol;
- 6015 (H) Fluoxymesterone;
- 6016 (I) Formebulone (formebolone);
- 6017 (J) Mesterolone;
- 6018 (K) Methandienone;
- 6019 (L) Methandranone;
- 6020 (M) Methandriol;
- 6021 (N) Methandrostenolone;
- 6022 (O) Methenolone;
- 6023 (P) Methyltestosterone;
- 6024 (Q) Mibolerone;
- 6025 (R) Nandrolone;
- 6026 (S) Norethandrolone;
- 6027 (T) Oxandrolone;
- 6028 (U) Oxymesterone;
- 6029 (V) Oxymetholone;
- 6030 (W) Stanolone;
- 6031 (X) Stanozolol;
- 6032 (Y) Testolactone;
- 6033 (Z) Testosterone; and
- 6034 (AA) Trenbolone.

6035 (vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

6038 (viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

6042 (ix) Nabiximols.

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6043 (d) Schedule IV:

6044 (i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

6048 (ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation ~~[which]~~ that contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

6053 (A) Alprazolam;

6054 (B) Barbital;

6055 (C) Bromazepam;

6056 (D) Butorphanol;

6057 (E) Camazepam;

6058 (F) Carisoprodol;

6059 (G) Chloral betaine;

6060 (H) Chloral hydrate;

6061 (I) Chlordiazepoxide;

6062 (J) Clobazam;

6063 (K) Clonazepam;

6064 (L) Clorazepate;

6065 (M) Clotiazepam;

6066 (N) Cloxazolam;

6067 (O) Delorazepam;

6068 (P) Diazepam;

6069 (Q) Dichloralphenazone;

6070 (R) Estazolam;

6071 (S) Ethchlorvynol;

6072 (T) Ethinamate;

6073 (U) Ethyl loflazepate;

6074 (V) Fludiazepam;

6075 (W) Flunitrazepam;

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6076 (X) Flurazepam;
6077 (Y) Halazepam;
6078 (Z) Haloxazolam;
6079 (AA) Ketazolam;
6080 (BB) Loprazolam;
6081 (CC) Lorazepam;
6082 (DD) Lormetazepam;
6083 (EE) Mebutamate;
6084 (FF) Medazepam;
6085 (GG) Meprobamate;
6086 (HH) Methohexital;
6087 (II) Methylphenobarbital (mephobarbital);
6088 (JJ) Midazolam;
6089 (KK) Nimetazepam;
6090 (LL) Nitrazepam;
6091 (MM) Nordiazepam;
6092 (NN) Oxazepam;
6093 (OO) Oxazolam;
6094 (PP) Paraldehyde;
6095 (QQ) Pentazocine;
6096 (RR) Petrichloral;
6097 (SS) Phenobarbital;
6098 (TT) Pinazepam;
6099 (UU) Prazepam;
6100 (VV) Quazepam;
6101 (WW) Temazepam;
6102 (XX) Tetrazepam;
6103 (YY) Tramadol;
6104 (ZZ) Triazolam;
6105 (AAA) Zaleplon; and
6106 (BBB) Zolpidem.

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6107 (iii) Any material, compound, mixture, or preparation of fenfluramine [which] that contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

6111 (iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

6117 (A) Cathine ((+)-norpseudoephedrine);

6118 (B) Diethylpropion;

6119 (C) Fencamfamine;

6120 (D) Fenproporex;

6121 (E) Mazindol;

6122 (F) Mefenorex;

6123 (G) Modafinil;

6124 (H) Pemoline, including organometallic complexes and chelates thereof;

6125 (I) Phentermine;

6126 (J) Pipradrol;

6127 (K) Sibutramine; and

6128 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

6129 (v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

6133 (vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

6137 (e) Schedule V:

6138 (i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the

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compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- 6143 (A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- 6144 (B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
- 6146 (C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
- 6148 (D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- 6150 (E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- 6151 (F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and
- 6153 (G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

6157 (ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91-513.

6161 (iii) Gabapentin.

6200 Section 69. Section **58-37-109** is renumbered and amended to read:

6202 **58-37-4.2] 58-37-109. Listed controlled substances.**

The following substances, their analogs, homologs, and synthetic equivalents, are listed controlled substances:

- 6167 (1) AB-001;
- 6168 (2) AB-PINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide;
- 6170 (3) AB-FUBINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl) methyl]-1H-indazole-3-carboxamide;
- 6172 (4) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);
- 6174 (5) ADB-CHMINACA (N-[(2S)-1-amino-3,3-dimethyl-1-oxobutan-2-yl]-1-(cyclohexylmethyl)indazole-3-carboxamide);

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(6) ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1oxobutan-2-yl)-1- (4-fluorobenzyl)-1H-indazole-3-caboxamide);
6178 (7) AKB48;
6179 (8) alpha-Pyrrolidinohexanophenone (alpha-PHP) (1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one);
6181 (9) alpha-Pyrrolidinovalerophenone (alpha-PVP);
6182 (10) AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone);
6183 (11) AM-1248;
6184 (12) AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole);
6185 (13) AM-2233;
6186 (14) AM-679;
6187 (15) A796,260;
6188 (16) Butylone;
6189 (17) CP 47,497 and its C6, C8, and C9 homologs (2-[(1R,3S)-3-hydroxycyclohexyl] -5-(2-methyloctan-2-yl)phenol);
6191 (18) Diisopropyltryptamine (DiPT);
6192 (19) Ethylone;
6193 (20) Ethylphenidate;
6194 (21) Fluoroisocathinone;
6195 (22) Fluoromethamphetamine;
6196 (23) Fluoromethcathinone;
6197 (24) FUB-AMB; methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)valinate;
6198 (25) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
6200 (26) HU-211; Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
6201 (27) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
6202 (28) JWH-018; Naphthalen-1-yl-(pentylinol-3-yl)methanone { also known as 1-Pentyl-3-(1-naphthoyl)indole};
6203 (29) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
6204 (30) JWH-073; Naphthalen-1-yl(1-butylindol-3-yl)methanone { also known as 1-Butyl-3-(1-naphthoyl)indole};

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6208 (31) JWH-081; 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;
6209 (32) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
6210 (33) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;
6211 (34) JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;
6212 (35) JWH-210; 4-ethyl-1-naphthalenyl(1-pentyl-1H-indol-3-yl)-methanone;
6213 (36) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;
6214 (37) JWH-251; 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;
6215 (38) JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;
6216 (39) MAM-2201;
6217 (40) MAM-2201; (1-(5-fluoropentyl)-1H-indol-3-yl)(4-ethyl-1-naphthalenyl)-methanone;
6218 (41) Methoxetamine;
6219 (42) Naphyrone;
6220 (43) PB-22; 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester;
6221 (44) Pentedrone;
6222 (45) Pentyalone;
6223 (46) RCS-4; 1-pentyl-3-(4-methoxybenzoyl)indole;
6224 (47) RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as BTW-8 and SR-18};
6226 (48) STS-135;
6227 (49) UR-144;
6228 (50) UR-144 N-(5-chloropentyl) analog;
6229 (51) XLR11;
6230 (52) 2C-C;
6231 (53) 2C-D;
6232 (54) 2C-E;
6233 (55) 2C-H;
6234 (56) 2C-I;
6235 (57) 2C-N;
6236 (58) 2C-P;
6237 (59) 2C-T-2;
6238 (60) 2C-T-4;

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6239 (61) 2NE1;
6240 (62) 25I-NBOMe;
6241 (63) 2,5-Dimethoxy-4-chloroamphetamine (DOC);
6242 (64) 4-Fluoro MDMB-BUTINACA (Methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate);
6244 (65) 4-methylmethcathinone {also known as mephedrone};
6245 (66) 3,4-methylenedioxypyrovalerone {also known as MDPV};
6246 (67) 3,4-Methylenedioxymethcathinone {also known as methylone};
6247 (68) 4-methoxymethcathinone;
6248 (69) 4-Methyl-alpha-pyrrolidinopropiophenone;
6249 (70) 4-Methylethcathinone;
6250 (71) 5F-AKB48; 1-(5-fluoropentyl)-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3- carboxamide;
6252 (72) 5-Fluoro ADB (Methyl N-{{1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl}-3-methyl-valinate);
6254 (73) 5-Fluoro AMB (Methyl N-{{1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl}valinate);
6255 (74) 5-fluoro-PB-22; 1-(5-fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester;
6256 (75) 5-Iodo-2-aminoindane (5-IAI);
6257 (76) 5-MeO-DALT;
6258 (77) 25B-NBOMe; 2-(r-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl) methyl]ethanamine;
6260 (78) 25C-NBOMe; 2-(4Chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl) methyl]ethanamine; and
6262 (79) 25H-NBOMe; 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine.

6301 Section 70. Section **58-37-110** is renumbered and amended to read:

[58-37-5.5]-58-37-110. Recognized controlled substance analogs.

6267 (1) A substance listed under Subsection (2) is an analog, as defined in Subsection [58-37-2(1) (g)] 58-37-101(1)(f), if the substance, in any quantity, and in any material, compound, mixture, or preparation, is present in:
6270 (a) any product manufactured, distributed, or possessed for the purpose of human consumption; or
6272 (b) any product, the use or administration of which results in human consumption.
6273 (2) Substances referred to in Subsection (1) include, but are not limited to:
6274 (a) gamma butyrolactone (GBL);
6275 (b) butyrolactone;
6276 (c) 1,2 butanolide;

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6277 (d) 2-oxanolone;
6278 (e) tetrahydro-2-furanone;
6279 (f) dihydro-2 (3H)-furanone;
6280 (g) tetramethylene glycol;
6281 (h) 1,4 butanediol; and
6282 (i) gamma valerolactone.

6321 Section 71. Section **58-37-111** is renumbered and amended to read:

6323 **[58-37-2.5] 58-37-111. Exceptions to applicability for certain herbs and food supplements.**

This chapter[does] and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, do not restrict the sale and use of herbs, herbal products, or food supplements that are not scheduled in this chapter as controlled substances.

6328 Section 72. Section **58-37-112** is renumbered and amended to read:

6330 **[58-37-7] 58-37-112. Labeling and packaging controlled substance -- Informational pamphlet for opiates -- Naloxone education and offer to dispense.**

6295 (1) A person licensed [pursuant to this act] under this chapter may not distribute a controlled substance unless [it] the controlled substance is packaged and labeled in compliance with the requirements of Section 305 of the [Federal] comprehensive Drug Abuse Prevention and Control Act of 1970.

6299 (2) No person, except a pharmacist for the purpose of filling a prescription[shall] , may alter, deface, or remove any label affixed by the manufacturer.

6301 (3) Whenever a pharmacy sells or dispenses any controlled substance on a prescription issued by a practitioner, the pharmacy shall affix to the container in which the substance is sold or dispensed:

6304 (a) a label showing the:

6305 (i) pharmacy name and address;

6306 (ii) serial number; and

6307 (iii) date of initial filling;

6308 (b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;

6310 (c) the name of the practitioner by whom the prescription was written;

6311 (d) any directions stated on the prescription; and

6312 (e) any directions required by rules and regulations promulgated by the department.

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6313 (4) Whenever a pharmacy sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, the pharmacy shall:

6315 (a) affix a warning to the container or the lid for the container in which the substance is sold or dispensed that contains the following text:

6317 (i) "Caution: Opioid. Risk of overdose and addiction"; or

6318 (ii) any other language that is approved by the Department of Health and Human Services;

6320 (b) beginning January 1, 2024:

6321 (i) offer to counsel the patient or the patient's representative on the use and availability of an opiate antagonist as defined in Section 26B-4-501; and

6323 (ii) offer to dispense an opiate antagonist as defined in Section 26B-4-501 to the patient or the patient's representative, under a prescription from a practitioner or under Section 26B-4-510, if the patient:

6326 (A) receives a single prescription for 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention;

6329 (B) is being dispensed an opioid and the pharmacy dispensed a benzodiazepine to the patient in the previous [30 day] 30-day period; or

6331 (C) is being dispensed a benzodiazepine and the pharmacy dispensed an opioid to the patient in the previous [30 day] 30-day period.

6333 (5)

6338 (a) A pharmacy who sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate shall, if available from the Department of Health and Human Services, prominently display at the point of sale the informational pamphlet developed by the Department of Health and Human Services under Section 26B-4-514.

(b) The board and the Department of Health and Human Services shall encourage pharmacies to use the informational pamphlet to engage in patient counseling regarding the risks associated with taking opiates.

6341 (c) The requirement in Subsection (5)(a) does not apply to a pharmacy if the pharmacy is unable to obtain the informational pamphlet from the Department of Health and Human Services for any reason.

6344 [(6) A person may not alter the face or remove any label so long as any of the original contents remain.]

6346 [(7)]

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(a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to the individual by the person selling or dispensing it.]

6351 [(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.]

6392 Section 73. Section **73** is enacted to read:

58-37-113. Medical research use of controlled substances -- Penalties for violation.

6357 (1) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection 58-37-105(2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-109.

6361 (2)

(a)

(i) A person licensed under this chapter who is found by the division to have violated Subsection (1) is subject to a penalty not to exceed \$5,000.

6363 (ii) The division shall determine the procedure for adjudication of a violation in accordance with Sections 58-1-106 and 58-1-108.

6365 (b) The division shall deposit all penalties collected under Subsection (2)(a)(i) into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

6368 (c) The director may collect a penalty that is not paid by:

6369 (i) referring the matter to a collection agency; or

6370 (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

6373 (d) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

6375 (e) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

6377 (3) Any person who knowingly and intentionally violates Subsection (1) is:

6378 (a) upon a first conviction, guilty of a class B misdemeanor;

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6379 (b) upon a second conviction, guilty of a class A misdemeanor; or
6380 (c) on a third or subsequent conviction, guilty of a third degree felony.
6381 (4) A previous conviction used for a penalty enhancement under this section includes a conviction for
an offense described in a statute previously in effect in this state that is the same or substantially
similar to a violation of this section.

6422 Section 74. Section **58-37-114** is renumbered and amended to read:

6424 **[58-37-15] 58-37-114. Burden of proof in proceedings on violations.**

6388 (1) It is not necessary for the state to negate any exemption or exception set forth in this [aet] chapter
or in Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, in any complaint,
information, indictment or other pleading or trial, hearing, or other proceeding under this
[aet] chapter or in Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, and the
burden of proof of any exemption or exception is upon the person claiming [its] the benefit of the
exemption or exception.

6394 (2) In absence of proof that a person is the duly authorized holder of an appropriate license, registration,
order form, or prescription issued under this [aet] chapter, a person shall be presumed not to be the
holder of a license, registration, order form, or prescription, and the burden of proof is upon the
person to rebut the presumption.

6398 [(3) No liability shall be imposed upon any duly authorized state or federal officer engaged in the
enforcement of this act who is engaged in the enforcement of any law, municipal ordinance, or
regulation relating to controlled substances.]

6439 Section 75. Section **75** is enacted to read:

6440 **58-37-115. Restrictions on liability for law enforcement.**

No liability shall be imposed upon any {duly} authorized state or federal officer engaged in the
{in the} enforcement of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning
Controlled

{Controlled} Substances, who is engaged in the enforcement of any law, municipal ordinance, or
regulation

{regulation} relating to controlled substances.

6445 Section 76. Section **76** is enacted to read:

6447 **58-37-201. Definitions.**

2. Enforcement, Proceedings, and Penalties

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Reserved.

6449 Section 77. Section **58-37-202** is renumbered and amended to read:

6451 **[58-37-8.5] 58-37-202. Applicability of Title 76 to prosecutions.**

Unless specifically excluded in or inconsistent with the provisions of this chapter or
Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, the following
provisions of [Title 76, Chapter 1, General Provisions,] Title 76, Utah Criminal Code, are
applicable to a prosecution under this chapter or under Title 76, Chapter 18, Part 2, Offenses
Concerning Controlled Substances:

6420 (1) Title 76, Chapter 2, Principles of Criminal Responsibility[.] :

6421 (2) Title 76, Chapter 3, Punishments[.] ; and

6422 (3) Title 76, Chapter 4, Inchoate Offenses[., are fully applicable to prosecutions under this chapter].

6462 Section 78. Section **58-37-203** is renumbered and amended to read:

6464 **[58-37-12] 58-37-203. Enforcement -- Coordination and cooperation of federal and state**
agencies -- Powers.

6428 (1) The department and all law enforcement agencies charged with enforcing this [aet] chapter, or Title
76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, shall cooperate with federal and
other state agencies in discharging their responsibilities concerning traffic in controlled substances
and in suppressing the abuse of controlled substances.[To this end, they]

6433 (2) In accordance with Subsection (1), the department and law enforcement agencies charged with
enforcing this chapter, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances,
are authorized to:

6436 [(1)] (a) [Arrange-] arrange for the exchange of information between governmental officials concerning
the use and abuse of dangerous substances[.] :

6438 [(2)] (b) [Coordinate-] coordinate and cooperate in training programs in controlled substance law
enforcement at the local and state levels[.] :

6440 [(3)] (c) [Cooperate-] cooperate with the United States Department of Justice and the Utah Department
of Public Safety by establishing a centralized unit [which] that will receive, catalog, file, and collect
statistics, including records of drug-dependent [persons] individuals and other controlled substance
law offenders within the state, and make the information available for federal, state, and local law
enforcement purposes[.] ; and

6446

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[4] (d) [Conduct] conduct programs of eradication aimed at destroying the wild or illicit growth of plant species from which controlled substances may be extracted.

6486 Section 79. Section **58-37-204** is renumbered and amended to read:

6488 **[58-37-9] 58-37-204. Investigators -- Status of peace officers.**

Investigators for the Department of[-] Commerce shall, for the purpose of enforcing the provisions of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, have the status of peace officers.

6493 Section 80. Section **58-37-205** is renumbered and amended to read:

6495 **[58-37-10] 58-37-205. Search warrants -- Administrative inspection warrants -- Inspections and seizures of property without warrant.**

6458 (1) Search warrants relating to offenses involving controlled substances may be authorized [pursuant to] in accordance with the Utah Rules of Criminal Procedure.

6460 (2) Issuance and execution of administrative inspection warrants shall be as follows:

6461 (a)

(i) Any judge or magistrate of this state within [his] the judge's or magistrate's jurisdiction upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this [act] chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or regulations thereunder and seizures of property appropriate to such inspections.

6467 (ii) Probable cause for purposes of this [act] chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, exists upon showing a valid public interest in the effective enforcement of the [act] chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or rules promulgated thereunder sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

6474 (b)

(i) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged sworn to before a judge or magistrate [which] that establish the grounds for issuing the warrant.

6477 (ii) If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, [he] the judge or magistrate shall issue a warrant identifying the area,

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premises, building, or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be inspected, if any.

6482 (iii) The warrant shall:

6483 [(i)] (A) state the grounds for [its] the warrant's issuance and the name of each person whose affidavit has been taken to support it;

6485 [(ii)] (B) be directed to a person authorized by Section [58-37-9] 58-37-204 of this [aet] chapter to execute it;

6487 [(iii)] (C) command the person to whom [it] the warrant is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and if appropriate, direct the seizure of the property specified;

6490 [(iv)] (D) identify the item or types of property to be seized, if any; and

6491 [(v)] (E) direct that [it] the warrant be served during normal business hours and designate the judge or magistrate to whom it shall be returned.

6493 (c)

6496 (i) A warrant issued pursuant to this section must be executed and returned within 10 days after [its date] the date of the warrant unless, upon a showing of a need for additional time, the court instructs otherwise in the warrant.

6500 (ii) If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken, or leave the copy and receipt at the place where the property was taken.

6502 (iii) Return of the warrant shall be made promptly and be accompanied by a written inventory of any property taken.

6506 (iv) The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant.

6508 (v) A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

6510 (3) The department is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

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6512 (a) For purposes of this section only, "controlled premises" means:

6513 (i) [Places] places where persons licensed or exempted from licensing requirements under this
[aet] chapter are required to keep records[.] ; or

6515 (ii) [Places-] places including factories, warehouses, establishments, and conveyances where persons
licensed or exempted from licensing requirements are permitted to possess, manufacture, compound,
process, sell, deliver, or otherwise dispose of any controlled substance.

6519 (b) When authorized by an administrative inspection warrant, a law enforcement officer or employee
designated in Section [58-37-9] 58-37-204, upon presenting the warrant and appropriate credentials
to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose
of conducting an administrative inspection.

6523 (c) When authorized by an administrative inspection warrant, a law enforcement officer or employee
designated in Section [58-37-9] 58-37-204 has the right:

6525 (i) [To-] to inspect and copy records required by this chapter[.] ;

6526 (ii) [To-] to inspect within reasonable limits and a reasonable manner, the controlled premises and
all pertinent equipment, finished and unfinished material, containers, and labeling found, and
except as provided in Subsection (3)(e), all other things including records, files, papers, processes,
controls, and facilities subject to regulation and control by this chapter or by rules promulgated by
the department[.] ; and

6532 (iii) [To-] to inventory and take stock of any controlled substance and obtain samples of any substance.

6534 (d) This section shall not be construed to prevent the inspection of books and records without a warrant
pursuant to an administrative subpoena issued by a court or the department, nor shall it be construed
to prevent entries and administrative inspections including seizures of property without a warrant:

6538 (i) with the consent of the owner, operator, or agent in charge of the controlled premises;

6540 (ii) in situations presenting imminent danger to health or safety;

6541 (iii) in situations involving inspection of conveyances where there is reasonable cause to believe that the
mobility of the conveyance makes it impracticable to obtain a warrant;

6544 (iv) in any other exceptional or emergency circumstance where time or opportunity to apply for a
warrant is lacking; and

6546 (v) in all other situations where a warrant is not constitutionally required.

6547

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(e) No inspection authorized by this section shall extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

6589 Section 81. Section **58-37-206** is renumbered and amended to read:

6591 **[58-37-11] 58-37-206. Court action to enjoin a violation -- Jury trial.**

6554 (1) A court may enjoin [violations of this act] a violation of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

6556 (2) If an alleged violation of an injunction or restraining order issued under this section occurs, the accused may demand a jury trial in accordance with the Utah Rules of Civil Procedure.

6598 Section 82. Section **58-37-207** is renumbered and amended to read:

6600 **[58-37-14] 58-37-207. Resort for illegal use or possession of controlled substances deemed common nuisance -- District court power to suppress and enjoin.**

6564 (1)

6564 (a) Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or other place to which users or possessors of any controlled substances, listed in schedules I through V, resort or where use or possession of any substances violates this [act] chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or which is used for illegal keeping, storing, or selling any substances listed as controlled substances in schedules I through V, shall be deemed a common nuisance.

6571 (b) No person shall open, keep, or maintain [any such place] a place described in Subsection (1)(a).

6573 (2) The district court has the power to make any order necessary or reasonable to suppress any nuisance and to enjoin any person or persons from doing any act calculated to cause, or permit the continuation of a nuisance.

6615 Section 83. Section **83** is enacted to read:

6616 **58-37-208. Prima facie evidence.**

6616 In any prosecution for a violation of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

6622 Section 84. Section **84** is enacted to read:

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6623

58-37-209. Privileged communication.

Any information communicated to a licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

6627

Section 85. Section **85** is enacted to read:

58-37-210. Penalties -- Bar to state prosecution.

6590

(1) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

6591

(2) When a violation of this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

6634

Section 86. Section **86** is enacted to read:

6636

58-37-301. Definitions.

3. Specific Provisions Regarding Prescriptions and Orders
Reserved.

6638

Section 87. Section **58-37-302** is renumbered and amended to read:

[58-37-22] 58-37-302. Electronic prescriptions for controlled substances.

6603

(1) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription, unless the prescription is:

6605

(a) for a patient residing in an assisted living facility as that term is defined in Section 26B-2-201, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;

6608

(b) issued by a veterinarian licensed under Chapter 28, Veterinary Practice Act;

6609

(c) dispensed by a Department of Veterans Affairs pharmacy;

6610

(d) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or

6612

(e) issued in an emergency situation.

6613

(2) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

6617

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- (a) require that controlled substances prescribed or dispensed under Subsection (1)(d) indicate on the prescription that the prescribing practitioner or the pharmacy is experiencing a technical difficulty or an electronic failure;
- 6620 (b) define an emergency situation for purposes of Subsection (1)(e);
- 6621 (c) establish additional exemptions to the electronic prescription requirements established in this section;
- 6623 (d) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (1);
- 6625 (e) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and
- 6627 (f) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.

6629 (3) Beginning July 1, 2024, a pharmacy software program for receiving an electronic prescription for a controlled substance shall be capable of electronically transferring a prescription to a different pharmacy:

- 6632 (a) upon the request of the patient or the practitioner;
- 6633 (b) with the approval of a pharmacist at the originating pharmacy; and
- 6634 (c) if the prescription is unfilled.

6674 Section 88. Section **58-37-303** is renumbered and amended to read:

6676 **[58-37-6.5] 58-37-303. Continuing education for controlled substance prescribers.**

- 6639 (1) For the purposes of this section:
- 6640 (a) "Controlled substance prescriber" means an individual, other than a veterinarian, who:
- 6642 (i) is licensed to prescribe a controlled substance under this chapter; and
- 6643 (ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe schedule II controlled substances and schedule III controlled substances that are applicable to opioid narcotics, hypnotic depressants, or psychostimulants.
- 6646 (b) "D.O." means an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act.
- 6648 (c) "FDA" means the United States Food and Drug Administration.
- 6649 (d) "M.D." means a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act.

6651

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(e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration or defined by the division, in consultation with the Office of Substance Use and Mental Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6656 (2)

6660 (a) Beginning with the licensing period that begins after January 1, 2014, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours per licensing period that satisfy the requirements of Subsection (3).

6660 (b)

6664 (i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection (4).

6667 (ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i), fulfills the continuing education hours requirement in Subsection (3) for the licensing period in which the class was completed.

6667 (iii) A controlled substance prescriber:

6668 (A) need only take the SBIRT-training class once during the controlled substance prescriber's licensure in the state; and

6670 (B) shall provide a completion record of the SBIRT-training class in order to be reimbursed for SBIRT services to patients, in accordance with Sections 26B-3-131 and 49-20-416.

6673 (3) A controlled substance prescriber shall complete at least 3.5 hours of continuing education in one or more controlled substance prescribing classes, except dentists, who shall complete at least two hours, that satisfy the requirements of Subsections (4) and (6).

6676 (4) A controlled substance prescribing class shall:

6677 (a) satisfy the division's requirements for the continuing education required for the renewal of the controlled substance prescriber's respective license type;

6679 (b) be delivered by an accredited or approved continuing education provider recognized by the division as offering continuing education appropriate for the controlled substance prescriber's respective license type; and

6682 (c) include a postcourse knowledge assessment.

6683

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(5) An M.D. or D.O. completing continuing professional education hours under Subsection (4) shall complete those hours in classes that qualify for the American Medical Association Physician's Recognition Award Category 1 Credit.

6686 (6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:

6688 (a) the scope of the controlled substance abuse problem in Utah and the nation;

6689 (b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;

6692 (c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;

6694 (d) patient record documentation for controlled substance and opioid prescribing;

6695 (e) office policies, procedures, and implementation; and

6696 (f) some training regarding medical cannabis, as that term is defined in Section 26B-4-201.

6698 (7)

6701 (a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for an M.D. or D.O.

6705 (b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber other than an M.D. or D.O.

6709 (c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber.

6711 (d) The division shall consult with the Department of Health and Human Services regarding the medical cannabis training described in Subsection (6)(f).

6712 (8) A controlled substance prescribing class required under this section:

6713 (a) may be held;

6713 (i) in conjunction with other continuing professional education programs; and

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6714 (ii) online; and

6715 (b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.

6717 (9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

6719 (10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection (3) for two consecutive licensing periods.

6763 Section 89. Section **89** is enacted to read:

6764 **58-37-304. Prescription requirements -- Penalties.**

6726 (1) An individual may not write or authorize a prescription for a controlled substance unless the individual is:

6728 (a) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

6730 (b) licensed under this chapter or under the laws of another state having similar standards.

6732 (2) An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

6735 (3)

6738 (a) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

6740 (b) A written prescription described in Subsection (3)(a) shall be made in accordance with Subsection (1) and in conformity with Subsection (4).

6743 (c) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

6745 (d) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (4).

(4) Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by

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the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

- 6750 (a) the name, address, and registry number of the prescriber;
- 6751 (b) the name, address, and age of the person to whom or for whom the prescription is issued;
- 6753 (c) the date of issuance of the prescription; and
- 6754 (d) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.
- 6756 (5) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:
 - 6758 (a) the individual who writes the prescription is licensed under Subsection 58-37-105(2); and
 - 6760 (b) the prescribed controlled substance is to be used in research.
- 6761 (6)
 - 6763 (a) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (6).
 - 6764 (b) A prescription for a Schedule II substance may not be refilled.
 - 6766 (c) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.
 - 6770 (d)
 - 6772 (i) A prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.
 - 6774 (ii) Subsection (6)(d)(i) does not apply to prescriptions issued for complex or chronic conditions that are documented as being complex or chronic in the medical record.
 - 6778 (iii) A pharmacist is not required to verify that a prescription is in compliance with this Subsection (6)(d).
 - (e) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of the original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.
 - (f) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

6781

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(g) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

6785 (h) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

6787 (i) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

6789 (ii) no one prescription may exceed a 30-day supply; and

6790 (iii) a second or third prescription shall include the date of issuance and the date for dispensing.

6792 (7) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this section if the order is:

6795 (a) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under Section 58-37-105, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

6799 (b) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

6801 (c) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

6805 (d) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

6809 (8)

6810 (a) For purposes of Subsection (8)(b):

6811 (i) "Child" means the same as that term is defined in Section 80-1-102.

6813 (ii) "Emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

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(b) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child, except in cases of an emergency.

6817 (9) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

6820 (10) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

6824 (11) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

6827 (12) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

6829 (13) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

6832 (14) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

6834 (15) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

6838 (16)

(a)

(i) A person licensed under this chapter who is found by the division to have violated any of the provisions of Subsection (11), (12), (13), (14), or (15) is subject to a penalty not to exceed \$5,000.

6841 (ii) The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

6843 (b) The division shall deposit all penalties collected under Subsection (16)(a)(i) into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

6846 (c) The director may collect a penalty that is not paid by:

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6847 (i) referring the matter to a collection agency; or
6848 (ii) bringing an action in the district court of the county where the person against whom the penalty is
6848 imposed resides or in the county where the office of the director is located.
6851 (d) A county attorney or the attorney general of the state shall provide legal assistance and advice to the
6851 director in an action to collect a penalty.
6853 (e) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by
6853 the division to collect a penalty.
6855 (17)
6855 (a) A person who knowingly and intentionally violates Subsection (8), (9), or (10) is:
6856 (i) upon first conviction, guilty of a class B misdemeanor;
6857 (ii) upon second conviction, guilty of a class A misdemeanor; and
6858 (iii) upon third or subsequent conviction, guilty of a third degree felony.
6859 (b) A person who knowingly and intentionally violates Subsection (11), (12), (13), (14), or (15) is guilty
6859 of a third degree felony.
6861 (18) A previous conviction used for a penalty enhancement under this section includes a conviction for
6861 an offense described in a statute previously in effect in this state that is the same or substantially
6861 similar to a violation of this section.
6903 Section 90. Section **90** is enacted to read:
6904 **58-37-305. High risk prescriptions.**
6866 (1) As used in this section:
6867 (a) "Database" means the controlled substance database created in Section 58-37f-201.
6868 (b) "High risk prescription" means a prescription for an opiate or a benzodiazepine that is written to
6868 continue for longer than 30 consecutive days.
6870 (2) A practitioner who issues a high risk prescription to a patient shall, before issuing the high
6870 risk prescription to the patient, verify in the database that the patient does not have a high risk
6870 prescription from a different practitioner that is currently active.
6873 (3) If the database shows that the patient has received a high risk prescription that is currently active
6873 from a different practitioner, the practitioner may not issue a high risk prescription to the patient
6873 unless the practitioner:
6876 (a) contacts and consults with each practitioner who issued a high risk prescription that is currently
6876 active to the patient;

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6878 (b) documents in the patient's medical record that the practitioner made contact with each practitioner in accordance with Subsection (3)(a); and

6880 (c) documents in the patient's medical record the reason why the practitioner believes that the patient needs multiple high risk prescriptions from different practitioners.

6882 (4) A practitioner shall satisfy the requirement described in Subsection (3) in a timely manner, which may be after the practitioner issues the high risk prescription to the patient.

6924 Section 91. Section **58-37-306** is renumbered and amended to read:

6926 **[58-37-19] 58-37-306. Opiate prescription consultation -- Prescription for opiate antagonist required.**

6889 (1) As used in this section:

6890 (a) "Initial opiate prescription" means a prescription for an opiate to a patient who:

6891 (i) has never previously been issued a prescription for an opiate; or

6892 (ii) was previously issued a prescription for an opiate, but the date on which the current prescription is being issued is more than one year after the date on which an opiate was previously prescribed or administered to the patient.

6895 (b) "Opiate antagonist" means the same as that term is defined in Section 26B-4-501.

6896 (c) "Prescriber" means an individual who is authorized to prescribe a controlled substance under this chapter.

6898 (2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate prescription without discussing with the patient, or the patient's parent or guardian if the patient is under 18 years old and is not an emancipated minor:

6901 (a) the risks of addiction and overdose associated with opiate drugs;

6902 (b) the dangers of taking opiates with alcohol, benzodiazepines, and other central nervous system depressants;

6904 (c) the reasons why the prescription is necessary;

6905 (d) alternative treatments that may be available; and

6906 (e) other risks associated with the use of the drugs being prescribed.

6907 (3) Subsection (2) does not apply to a prescription for:

6908 (a) a patient who is currently in active treatment for cancer;

6909 (b) a patient who is receiving hospice care from a licensed hospice as defined in Section 26B-2-201; or

6911

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(c) a medication that is being prescribed to a patient for the treatment of the patient's substance abuse or opiate dependence.

6913 (4)

(a) Beginning January 1, 2024, a prescriber shall offer to prescribe or dispense an opiate antagonist to a patient if the patient receives an initial opiate prescription for:

6915 (i) 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention; or

6918 (ii) any opiate if the practitioner is also prescribing a benzodiazepine to the patient.

6919 (b) Subsection (4)(a) does not apply if the initial opiate prescription:

6920 (i) is administered directly to an ultimate user by a licensed practitioner; or

6921 (ii) is for a three-day supply or less.

6922 (c) This Subsection (4) does not require a patient to purchase or obtain an opiate antagonist as a condition of receiving the patient's initial opiate prescription.

6963 Section 92. Section **58-37-307** is renumbered and amended to read:

6965 **[58-37-23] 58-37-307. Methadone orders authorized.**

6927 (1) As used in this section:

6928 (a) "Emergency medical order" means a medical order as defined in Section 58-17b-102 for up to a 72-hour supply of methadone.

6930 (b) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

6931 (c) "Qualified pharmacy" means a pharmacy that is located on the premises of a general acute hospital that is licensed as a:

6933 (i) class A pharmacy as defined in Section 58-17b-102; or

6934 (ii) class B pharmacy as defined in Section 58-17b-102.

6935 (d) "Qualified practitioner" means a practitioner who is:

6936 (i) [is-]registered with the United States Drug Enforcement Administration to issue an emergency medical order; and

6938 (ii) [is-]working at a general acute hospital.

6939 (2) A qualified practitioner may issue an emergency medical order to a qualified pharmacy to dispense up to a 72-hour supply of methadone on behalf of the qualified practitioner:

6941 (a) to relieve acute withdrawal symptoms while the qualified practitioner makes arrangements to refer the patient for substance use disorder treatment; and

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6943 (b) in accordance with 21 C.F.R. Sec. 1306.07 and applicable regulation or guidance issued by the
United States Drug Enforcement Administration regarding an emergency medical order.

6985 Section 93. Section **58-37-308** is renumbered and amended to read:

6987 **[58-37-6.1] 58-37-308. Veterinary exemption for gabapentin.**
A veterinarian licensed under Chapter 28, Veterinary Practice Act, who is prescribing, administering, or dispensing gabapentin within the veterinarian's scope of practice, is exempt from the requirements of this chapter and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

6992 Section 94. Section **58-37-309** is renumbered and amended to read:

6994 **[58-37-3.5] 58-37-309. Drugs for behavioral health treatment.**

6957 (1) As used in this section:

6958 (a) "Drug" means any form of psilocybin or methylenedioxymethamphetamine that is in federal Food and Drug Administration Phase 3 testing for an investigational drug described in 21 C.F.R. Part 312.

6961 (b) "Healthcare system" means:

6962 (i) a privately-owned, non-profit, vertically-integrated healthcare system that operates at least 15 licensed hospitals in the state; or

6964 (ii) a health care system closely affiliated with an institution of higher education listed in Section 53H-1-102.

6966 (2) A healthcare system may develop a behavioral health treatment program that includes a treatment based on a drug that the healthcare system determines is supported by a broad collection of scientific and medical research.

6969 (3) A healthcare system described in Subsection (2):

6970 (a) shall ensure that a drug used under the exclusive authority of this section is used by a patient only under the direct supervision and control of the healthcare system and the healthcare system's health care providers who are licensed under this title; and

6973 (b) may not provide treatments that are authorized exclusively under this section to an individual who is not at least 18 years old.

6975 (4) Before July 1, 2026, a healthcare system that creates a behavioral health treatment program under this section shall provide a written report to the Health and Human Services Interim Committee regarding:

6978 (a) drugs used;

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6979 (b) health outcomes of patients;
6980 (c) side effects of any drugs used; and
6981 (d) any other information necessary for the Legislature to evaluate the medicinal value of any drugs.
6983 (5) An individual or entity that complies with this section when using, distributing, possessing,
administering, or supervising the use of, a drug is not guilty of a violation of this title.

7025 Section 95. Section **95** is enacted to read:

7027 **58-37-401. Definitions.**

4. Specific Provisions Relating to Cannabis, Cannabinoid Products, and Hemp
Reserved.

7029 Section 96. Section **58-37-402** is renumbered and amended to read:

7031 **[58-37-3.9] 58-37-402. Exemption for possession or use of cannabis to treat a qualifying
illness -- Penalties.**

6994 (1) As used in this section:
6995 (a) "Cannabis" means marijuana.
6996 (b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
6997 (c) "Drug paraphernalia" means the same as that term is defined in Section ~~[58-37a-3]~~ 76-18-301.
6999 (d) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.
7001 (e) "Medical cannabis device" means the same as that term is defined in Section 26B-4-201.
7003 (f) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.
7004 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as
described in Subsection ~~[58-37-4(2)(a)(iii)(AA)]~~ 58-37-108(2)(a)(iii)(AA).
7007 (2) Notwithstanding any other provision of law, except as otherwise provided in this section:
7008 (a) an individual is not guilty of a violation of this title or Title 76, Chapter 18, Drug Offenses, for the
following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a,
Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid
Research and Medical Cannabis:
7013 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or
offering to sell cannabis or a cannabis product; or
7015 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in
Subsection (2)(a)(i); and

7017

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(b) an individual is not guilty of a violation of this title or Title 76, Chapter 18, Drug Offenses, regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

7021 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

7023 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

7025 (3)

(a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

7027 (b) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

7030 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

7032 (i) does not possess the cannabis in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

7034 (ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b):

7036 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

7038 (B) for a second or subsequent offense, subject to charges under this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

7040 (4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for:

7045 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

7047 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

7048 (5)

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- (a) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.
- 7050 (b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections of this section to sell a medical cannabis device.
- 7054 (6) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

7096 Section 97. Section **58-37-403** is renumbered and amended to read:

7098 **[58-37-3.6] 58-37-403. Exemption for possession or distribution of a cannabinoid product, expanded cannabinoid product, or transportable industrial hemp concentrate.**

7062 (1) As used in this section:

7063 (a) "Cannabinoid product" means a product intended for human ingestion that:

7064 (i) contains an extract or concentrate that is obtained from cannabis; and

7065 (ii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

7067 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

7068 (c) "Expanded cannabinoid product" means a product intended for human ingestion that:

7069 (i) contains an extract or concentrate that is obtained from cannabis; and

7070 (ii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

7072 (d) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

7074 (i) is the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass;

7076 (ii) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis; and

7080 (iii) has a THC and THC analog concentration total less than 20% when concentrated from the cannabis plant to the purified state.

7082 (e) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection [58-37-4(2)(a)(iii)(AA)] 58-37-108(2)(a)(iii)(AA).

7084

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(2) Notwithstanding any other provision of this chapter or Title 76, Chapter 18, Part 2, Offenses

Concerning Controlled Substances, an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title or Title 76, Chapter 18, Drug Offenses, for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Section 26B-4-212.

7091 (3) Notwithstanding any other provision of this chapter or Title 76, Chapter 18, Part 2, Offenses

Concerning Controlled Substances, a person who possesses and distributes transportable industrial hemp concentrate is not subject to the penalties described in this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the possession or distribution of transportable industrial hemp concentrate if the transportable industrial hemp concentrate is handled in accordance with the rules established under Subsection 4-41-103.1(1)(e) or is destroyed.

7137 Section 98. Section **58-37-404** is renumbered and amended to read:

[58-37-3.7] 58-37-404. Medical cannabis decriminalization.

7101 (1) As used in this section:

7102 (a) "Cannabis" means the same as that term is defined in Section 26B-4-201.

7103 (b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

7104 (c) "Legal dosage limit" means the same as that term is defined in Section 26B-4-201.

7105 (d) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

7106 (e) "Medical cannabis device" means the same as that term is defined in Section 26B-4-201.

7108 (f) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

7109 (g) "Nonresident patient" means the same as that term is defined in Section 26B-4-201.

7110 (h) "Qualifying condition" means the same as that term is defined in Section 26B-4-201.

7111 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section [58-37-3.9] 58-37-402.

7113 (2) Before July 1, 2021, including during the period between January 1, 2021, and March 17, 2021, an individual is not guilty under this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

7117 (a) at the time of the arrest or citation, the individual:

7118 (i) for possession, was a medical cannabis cardholder; or

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- (ii) for use, was a medical cannabis patient cardholder or a minor with a provisional patient card under the supervision of a medical cannabis guardian cardholder; and

7121 (b)

- (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:
 - (A) unprocessed cannabis in a medicinal dosage form; or
 - (B) a cannabis product in a medicinal dosage form; and
- (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

7128 (3) A nonresident patient is not guilty under this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, if:

7132 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

- (i) unprocessed cannabis in a medicinal dosage form; or
- (ii) a cannabis product in a medicinal dosage form; and

7135 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

7139 (4)

- (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:
 - (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the sample; and
 - (ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.
- (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:
 - (i) Section 4-41-402; or
 - (ii) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

7148 (5)

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(a) An individual is not guilty under this chapter or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, for the use or possession of marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

7153 (b) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

7155 (c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections of this section to sell a medical cannabis device.

7198 Section 99. Section **58-37-405** is renumbered and amended to read:

7200 **[58-37-3.8] 58-37-405. Enforcement.**

7162 (1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, may not expend any state or local resources, including the law enforcement officer's time, to:

7168 (a) effect any arrest or seizure of cannabis, as that term is defined in Section 26B-4-201, or conduct any investigation, on the sole basis of activity the law enforcement officer believes to constitute a violation of federal law if the law enforcement officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

7173 (b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

7176 (c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

7178 (2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 28B-4-201, the state central patient portal, as that term is defined in Section 26B-4-201, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

7222 Section 100. Section **58-37c-101** is renumbered and amended to read:

7185 **CHAPTER 37c. Controlled Substance Precursors**

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Part 1. General Provisions

58-37c-3} 58-37c-101. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- 7188 (1) "Controlled substance precursor" includes a chemical reagent and means any of the following:
- 7190 (a) Phenyl-2-propanone;
- 7191 (b) Methylamine;
- 7192 (c) Ethylamine;
- 7193 (d) D-lysergic acid;
- 7194 (e) Ergotamine and its salts;
- 7195 (f) Diethyl malonate;
- 7196 (g) Malonic acid;
- 7197 (h) Ethyl malonate;
- 7198 (i) Barbituric acid;
- 7199 (j) Piperidine and its salts;
- 7200 (k) N-acetylanthranilic acid and its salts;
- 7201 (l) Pyrrolidine;
- 7202 (m) Phenylacetic acid and its salts;
- 7203 (n) Anthranilic acid and its salts;
- 7204 (o) Morpholine;
- 7205 (p) Ephedrine;
- 7206 (q) Pseudoephedrine;
- 7207 (r) Norpseudoephedrine;
- 7208 (s) Phenylpropanolamine;
- 7209 (t) Benzyl cyanide;
- 7210 (u) Ergonovine and its salts;
- 7211 (v) 3,4-Methylenedioxymethamphetamine;
- 7212 (w) propionic anhydride;
- 7213 (x) Insosafrole;
- 7214 (y) Safrole;
- 7215 (z) Piperonal;
- 7216 (aa) N-Methylephedrine;

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7217 (bb) N-ethylephedrine;

7218 (cc) N-methylpseudoephedrine;

7219 (dd) N-ethylpseudoephedrine;

7220 (ee) Hydriotic acid;

7221 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide, 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but not including gamma aminobutyric acid (GABA);

7224 (gg) 1,4 butanediol;

7225 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (1)(a) through (gg);

7227 (ii) Crystal iodine;

7228 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;

7229 (kk) Red phosphorous, except as provided in Section [58-37e-19.7] 58-37c-205;

7230 (ll) anhydrous ammonia, except as provided in Section [58-37e-19.9] 58-37c-206;

7231 (mm) any controlled substance precursor listed under the provisions of the Federal Controlled Substances Act which is designated by the director under the emergency listing provisions set forth in Section [58-37e-14] 58-37c-110; and

7234 (nn) any chemical which is designated by the director under the emergency listing provisions set forth in Section [58-37e-14] 58-37c-110.

7236 (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or attempted transfer of a controlled substance precursor.

7238 (3) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

7240 (4) "Person" means [any] an individual, group of individuals, proprietorship, partnership, joint venture, corporation, or organization of any type or kind.

7242 (5) "Practitioner" means a physician, physician assistant, dentist, podiatric physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state.

7248 (6)

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- (a) "Regulated distributor" means a person within the state who provides, sells, furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a regulated transaction.
- (b) "Regulated distributor" does not include [any] a person excluded from regulation under this chapter.

7251 (7)

- (a) "Regulated purchaser" means [any] a person within the state who receives a listed controlled substance precursor chemical in a regulated transaction.
- (b) "Regulated purchaser" does not include [any] a person excluded from regulation under this chapter.

7255 (8) "Regulated transaction" means [any] an actual, constructive, or attempted:

7257 (a) transfer, distribution, delivery, or furnishing by a person within the state to another person within or outside of the state of a threshold amount of a listed precursor chemical; or

7261 (b) purchase or acquisition by any means by a person within the state from another person within or outside the state of a threshold amount of a listed precursor chemical.

7263 (9) "Retail distributor" means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor are limited almost exclusively to sales for personal use:

7266 (a) in both number of sales and volume of sales; and

7267 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.

7268 (10) "Threshold amount of a listed precursor chemical" means any amount of a controlled substance precursor or a specified amount of a controlled substance precursor in a matrix; however, the division may exempt from the provisions of this chapter a specific controlled substance precursor in a specific amount and in certain types of transactions, which provisions for exemption shall be defined by the division by rule adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

7274 (11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and intentionally:

7276 (a) engaging in a regulated transaction without first being appropriately licensed or exempted from licensure under this chapter;

7278 (b) acting as a regulated distributor and selling, transferring, or in any other way conveying a controlled substance precursor to a person within the state who is not appropriately licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or otherwise conveying a controlled substance precursor to a person outside of the state and failing to report the transaction as required;

7283 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a controlled substance precursor from a person within the state who is not a licensed regulated distributor, or purchasing or

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otherwise obtaining a controlled substance precursor from a person outside of the state and failing to report the transaction as required;

- 7288 (d) engaging in a regulated transaction and failing to submit reports and keep required records of inventories required under the provisions of this chapter or rules adopted pursuant to this chapter;
- 7291 (e) making any false statement in any application for license, in any record to be kept, or on any report submitted as required under this chapter;
- 7293 (f) with the intent of causing the evasion of the recordkeeping or reporting requirements of this chapter and rules related to this chapter, receiving or distributing any listed controlled substance precursor chemical in any manner designed so that the making of records or filing of reports required under this chapter is not required;
- 7297 (g) failing to take immediate steps to comply with licensure, reporting, or recordkeeping requirements of this chapter because of lack of knowledge of those requirements, upon becoming informed of the requirements;
- 7300 (h) presenting false or fraudulent identification where or when receiving or purchasing a listed controlled substance precursor chemical;
- 7302 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or recordkeeping requirement of this chapter or rules related to this chapter, or receiving a chemical mixture created for that purpose;
- 7305 (j) if the [person] individual is at least 18 years [of age] old, employing, hiring, using, persuading, inducing, enticing, or coercing another [person] individual under 18 years [of age] old to violate any provision of this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter by any federal, state, or local law enforcement official; and
- 7310 (k) obtaining or attempting to obtain or to possess any controlled substance precursor or any combination of controlled substance precursors knowing or having a reasonable cause to believe that the controlled substance precursor is intended to be used in the unlawful manufacture of any controlled substance.

7314 (12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further defined by rule includes the following:

7316 (a) violation of any provision of this chapter, the Controlled Substance Act of this state or any other state, or the [Federal] Controlled Substance Act; and

7318

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(b) refusing to allow agents or representatives of the division or authorized law enforcement personnel to inspect inventories or controlled substance precursors or records or reports relating to purchases and sales or distribution of controlled substance precursors as such records and reports are required under this chapter.

7362 Section 101. Section **58-37c-102** is renumbered and amended to read:

7364 **[58-37e-5] 58-37c-102. Responsibility of Department of Commerce -- Delegation to the**
Division of Professional Licensing -- Rulemaking authority of the division.

7327 (1) [Responsibility] The Department of Commerce is responsible for the enforcement of the licensing and reporting provisions of this chapter[shall be with the Department of Commerce].

7330 (2) The executive director shall delegate specific responsibility within the department to the Division of Professional Licensing.

7332 (3) The division shall make, adopt, amend, and repeal rules necessary for the proper administration and enforcement of this chapter.

7374 Section 102. Section **58-37c-103** is renumbered and amended to read:

7376 **[58-37e-6] 58-37c-103. Division duties.**

7337 (1) The division [shall be] is responsible for the licensing and reporting provisions of this chapter.

7339 (2) [and those duties shall] The duties described in Subsection (1) include:

7340 [(1)] (a) providing for a system of licensure of regulated distributors and regulated purchasers;

7342 [(2)] (b) refusing to renew a license or revoking, suspending, restricting, placing on probation, issuing a private or public letter of censure or reprimand, or imposing other appropriate action against a license;

7345 [(3)] (c) with respect to the licensure and reporting provisions of this chapter, investigating or causing to be investigated any violation of this chapter by any person and to cause, when necessary, appropriate administrative action with respect to the license of that person;

7349 [(4)] (d) presenting evidence obtained from [investigations] an investigation conducted by an appropriate county [attorneys] attorney and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee;

7352 [(5)] (e) conducting hearings for the purpose of revoking, suspending, placing on probation, or imposing other appropriate administrative action against the license of a regulated [distributors] distributor or regulated [purchasers] purchaser in accordance with the provisions

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of Title 58, Chapter 1, Division of Professional Licensing Act, and Title 63G, Chapter 4, Administrative Procedures Act;

7357 [6] (f) assisting all other law enforcement agencies of the state in enforcing all laws regarding controlled substance precursors;

7359 [7] (g) specifying reports, frequency of reports, and conditions under which reports are to be submitted and to whom reports are to be submitted by regulated distributors and regulated purchasers with respect to transactions involving threshold amounts of controlled substance precursors; and

7363 [8] (h) performing all other functions necessary to fulfill division duties and responsibilities as outlined under this chapter or rules adopted pursuant to this chapter.

7406 Section 103. Section **58-37c-104** is renumbered and amended to read:

[58-37e-7] 58-37c-104. Controlled substance precursor license.

7370 (1) The division shall issue to persons qualified under the provisions of this chapter and rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a controlled substance precursor license.

7373 (2) It is unlawful for a person to engage in the distribution, sale, or transfer, or in the purchase or obtaining of a controlled substance precursor in a regulated transaction without being licensed or excepted from licensure under this chapter.

7416 Section 104. Section **58-37c-105** is renumbered and amended to read:

[58-37e-8] 58-37c-105. License -- Exceptions from licensure or regulation.

7380 (1) A person engaged in a regulated transaction under this chapter shall hold a controlled substance precursor license issued under Section **[58-37e-7] 58-37c-104**, unless excepted from licensure under this chapter.

7383 (2) The division shall:

7384 (a) establish the form of application for a license, the requirements for licensure, and fees for initial licensure and renewal; and

7386 (b) identify required information to be contained in the application as a condition of licensure.

7388 (3) A practitioner who holds a Utah Controlled Substance License and a Controlled Substance Registration issued by the Drug Enforcement Administration of the U.S. Government is excepted from licensure under this chapter.

7391

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(4) The purchase, sale, transfer, furnishing, or receipt of a drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription pursuant to the federal Food, Drug and Cosmetic Act, 21 USC, Sec. 301 et seq., or regulations adopted under that act, are excepted from licensure, reporting, and recordkeeping under this chapter, except that products containing ephedrine, pseudoephedrine, or phenylpropanolamine are subject to Section [58-37e-20.5] 58-37c-208.

7400 (5) The purchase, sale, transfer, receipt, or manufacture of dietary supplements, vitamins, minerals, herbs, or other similar substances, including concentrates or extracts, which are not otherwise prohibited by law, and which may contain naturally occurring amounts of chemicals or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are exempt from licensure under this chapter.

7406 (6) A purchaser of two ounces or less of crystal iodine in a single transaction is not required to be licensed as a regulated purchaser if the transaction complies with Section [58-37e-18] 58-37c-202.

7409 (7) The purchase, sale, transfer, receipt, or manufacture of a product that contains a precursor chemical listed in Subsection [58-37e-3(1)(ff) or (gg)] 58-37c-101(1)(ff) or (gg) and that is not intended for human consumption is exempt from licensure or regulation and is not subject to criminal penalties under this chapter.

7453 Section 105. Section **58-37c-106** is renumbered and amended to read:

7455 **[58-37e-9] 58-37c-106. Term of license -- Expiration -- Renewal.**

7417 (1)

(a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.

7419 (b) A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

7421 (2) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

7463 Section 106. Section **58-37c-107** is renumbered and amended to read:

7465 **[58-37e-10] 58-37c-107. Reporting and recordkeeping -- Penalty.**

7427

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(1) Any person who engages in a regulated transaction, unless excepted under the provisions of Subsections [58-37e-8(3) and (4)] 58-37c-105(3) and (4), shall submit a report with respect to such transaction and shall maintain records of inventories in accordance with rules adopted by the division.

7431 (2) The division shall provide reporting forms upon which regulated transactions shall be reported.

7433 (3) The division shall furnish copies of reports of transactions under this section to appropriate law enforcement agencies.

7435 (4) The division shall adopt rules regulating:

7436 (a) records [which] that shall be maintained and reports [which] that shall be submitted by regulated distributors and regulated purchasers with respect to listed controlled substance precursors obtained, distributed, and held in inventory;

7439 (b) records [which] that shall be maintained and reports [which] that shall be submitted by regulated distributors and regulated purchasers with respect to extraordinary or unusual regulated transactions and a requirement that in such cases the report must be received at least three working days [prior to] before transfer of the listed controlled substance precursor;

7444 (c) identification [which] that must be presented by a purchaser of any listed controlled substance precursor before the sale or transfer can be completed and recordkeeping requirements related to such identification presented;

7447 (d) filing by each licensee the identification of all locations where any listed controlled substance precursor is held in inventory or stored and amending such filing when any change in location is made;

7450 (e) reports and actions [which] that must be taken by a regulated distributor or regulated purchaser in the event of any theft, loss, or shortage of a listed controlled substance precursor;

7453 (f) reports and actions [which] that must be taken by a regulated distributor relating to a regulated transaction with an out-of-state purchaser;

7455 (g) reports and actions [which] that must be taken by a regulated purchaser relating to a regulated transaction with an out-of-state distributor; and

7457 (h) regulated transactions to the extent such regulation is reasonable and necessary to protect the public health, safety, or welfare.

7459 (5) A person who engages in a regulated transaction may not accept a driving privilege card issued in accordance with Section 53-3-207 as proof of identification as required under Subsection (4)(c).

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7462 (6) Any person who is a regulated distributor or a regulated purchaser who acts in violation of the provisions of this section, in addition to any criminal penalties, shall be subject to a civil penalty of not more than \$25,000 for each offense.

7505 Section 107. Section **58-37c-108** is renumbered and amended to read:

7507 **[58-37c-12] 58-37c-108. Grounds for denial of license -- Disciplinary proceedings.**

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

7513 Section 108. Section **58-37c-109** is renumbered and amended to read:

7515 **[58-37c-13] 58-37c-109. License does not authorize possession of controlled substances.**

Nothing in the provisions of this chapter shall authorize [persons] a person not licensed under provisions of [Title 58, Chapter 37, Utah Controlled Substances Act,] Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, to distribute, possess, dispense, administer, or otherwise deal in controlled substances as defined in [the Utah Controlled Substance Act]Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

7523 Section 109. Section **58-37c-110** is renumbered and amended to read:

7525 **[58-37c-14] 58-37c-110. Emergency listing provision.**

7486 (1) Upon a written finding of cause by the director that the listing of a chemical as a controlled substance precursor is necessary to protect the public health, safety, or welfare, the director may make an emergency listing of that chemical as a controlled substance precursor by adopting a rule pursuant to the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

7491 (2)

(a) [Such listing] A listing of a chemical described in Subsection (1) shall have effect until the close of the next immediately succeeding regular session of the Legislature.

7493 (b) In the event the Legislature adopts the chemical as a controlled precursor by amendment to this chapter, the chemical shall remain listed under emergency provisions until the effective date of the amendment.

7496

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(3) Any violation of this chapter dealing with a controlled substance precursor listed under the emergency listing provisions of this section shall constitute a violation subject only to civil or administrative penalties.

7539 Section 110. Section **58-37c-111** is renumbered and amended to read:

[58-37c-15]} 58-37c-111. Civil forfeiture.

The following shall be subject to forfeiture in accordance with the procedures and substantive protections of Title 77, Chapter 11b, Forfeiture of Seized Property:

7504 (1) all listed controlled substance precursor chemicals regulated under the provisions of this chapter [which] that have been distributed, possessed, or are intended to be distributed or otherwise transferred in violation of any felony provision of this chapter; and

7507 (2) all property used by any person to facilitate, aid, or otherwise cause the unlawful distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled substance precursor chemical in violation of any felony provision of this chapter.

7551 Section 111. Section **58-37c-112** is renumbered and amended to read:

[58-37c-17]} 58-37c-112. Inspection authority.

For the purpose of inspecting, copying, and auditing records and reports required under this chapter and rules adopted [pursuant thereto] under this chapter, and for the purpose of inspecting and auditing inventories of listed controlled substance precursors, the director, or [his] the director's authorized agent, and law enforcement personnel of any federal, state, or local law enforcement agency[is] , are authorized to enter the premises of a regulated [distributors and] distributor or regulated [purchasers] purchaser during normal business hours to conduct an administrative [inspections] inspection.

7561 Section 112. Section **58-37c-113** is renumbered and amended to read:

[58-37c-21]} 58-37c-113. Department of Public Safety enforcement authority.

7525 (1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section 53-10-103.

7527 (2)

(a) The division has authority to enforce this chapter.

7528 (b) To carry out [this purpose] enforcement of this chapter, the division may:

7529 [fa] (i) inspect, copy, and audit records, inventories of controlled substance precursors, and reports required under this chapter and rules adopted under this chapter;

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7532 [({b})] (ii) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;

7534 [({e})] (iii) assist the law enforcement agencies of the state in enforcing this chapter;

7535 [({d})] (iv) conduct investigations to enforce this chapter;

7536 [({e})] (v) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

7539 [({f})] (vi) work in cooperation with the Division of Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

7581 Section 113. Section **58-37c-114** is renumbered and amended to read:

7583 **[58-37e-11] 58-37c-114. Penalty for unlawful conduct.**

7544 (1) [A person who violates the] A violation of an unlawful conduct provision defined in Subsections [58-37e-3(11)(a) through (j)] 58-37c-101(11)(a) through (j) is [guilty of] a class A misdemeanor.

7547 (2) [A person who violates] A violation of the unlawful conduct [provisions] provision defined in Subsection [58-37e-3(11)(k)] 58-37c-101(11)(k) is [guilty of] a second degree felony.

7590 Section 114. Section **114** is enacted to read:

7592 **58-37c-201. Definitions.**

7594 2. Provisions Concerning Specific Precursors

7596 Reserved.

7594 Section 115. Section **58-37c-202** is renumbered and amended to read:

7596 **[58-37e-18] 58-37c-202. Recordkeeping requirements for sale of crystal iodine -- Penalty.**

7558 (1) [Any] A person licensed to engage in a regulated transaction and who sells crystal iodine to another person shall:

7560 (a) comply with the recordkeeping requirements of Section [58-37e-10] 58-37c-107;

7561 (b) require photo identification of the purchaser;

7562 (c) obtain from the purchaser a signature on a certificate of identification provided by the seller; and

7564 (d) obtain from the purchaser a legible fingerprint, preferably of the right thumb, which shall be placed on the certificate next to the purchaser's signature.

7566 (2) Any failure to comply with Subsection (1) is a class B misdemeanor.

7607 Section 116. Section **58-37c-203** is renumbered and amended to read:

7609 **[58-37e-19] 58-37c-203. Possession or sale of crystal iodine -- Penalty.**

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7571 (1) A person licensed to engage in a regulated transaction is guilty of a class B misdemeanor [who] if, under circumstances not amounting to a violation of Subsection [58-37d-4(1)(e)] 76-18-506(2)(c), the person offers to sell, sells, or distributes more than two ounces of crystal iodine to another person who is:

7575 (a) not licensed as a regulated purchaser of crystal iodine;

7576 (b) not excepted from licensure; or

7577 (c) not excepted under Subsection (3).

7578 (2) A person who is not licensed to engage in regulated transactions and not excepted from licensure is guilty of a class A misdemeanor [who] if, under circumstances not amounting to a violation of Subsection [58-37e-3(11)(k)] 58-37c-101(11)(k) or Subsection [58-37d-4(1)(a)] 76-18-506(2)(a), the person:

7582 (a) possesses more than two ounces of crystal iodine; or

7583 (b) offers to sell, sells, or distributes crystal iodine to another person.

7584 (3) Subsection (2)(a) does not apply to:

7585 (a) a chemistry laboratory maintained by:

7586 (i) a public or private regularly established secondary school; or

7587 (ii) a public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;

7590 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice Act; or

7592 (c) a general acute hospital.

7633 Section 117. Section **58-37c-204** is renumbered and amended to read:

7635 **[58-37e-19.5] 58-37c-204. Iodine solution greater than 1.5% -- Prescription or permit required -- Penalties.**

7597 (1) As used in this section, "iodine matrix" means iodine at concentrations greater than 1.5% by weight in a matrix or solution.

7599 (2) A person may offer to sell, sell, or distribute an iodine matrix only:

7600 (a) as a prescription drug, pursuant to a prescription issued by a veterinarian or physician licensed within the state; or

7602 (b) to a person who is actively engaged in the legal practice of animal husbandry of livestock, as defined in Section 4-1-109.

7604 (3) Prescriptions issued under this section:

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7605 (a) shall provide for a specified number of refills;

7606 (b) may be issued by electronic means, in accordance with Title 58, Chapter 17b, Pharmacy Practice
Act; and

7608 (c) may be filled by a person other than the veterinarian or physician issuing the prescription.

7610 (4) A retailer offering iodine matrix for sale:

7611 (a) shall store the iodine matrix so that the public does not have access to the iodine matrix without the
direct assistance or intervention of a retail employee;

7613 (b) shall keep a record, which may consist of sales receipts, of each person purchasing iodine matrix;
and

7615 (c) may, if necessary to ascertain the identity of the purchaser, ask for proof of identification from the
purchaser.

7617 (5) A person engaging in a regulated transaction under Subsection (2) is guilty of a class B
misdemeanor if the person, under circumstances not amounting to a violation of Subsection
[58-37d-4(1)(e)] 76-18-506(2)(c), offers to sell, sells, or distributes an iodine matrix to a person
who:

7621 (a) does not present a prescription or is not engaged in animal husbandry, as required under Subsection
(2); or

7623 (b) is not excepted under Subsection (7).

7624 (6) A person is guilty of a class A misdemeanor [who] if, under circumstances not amounting to a
violation of Subsection [58-37e-3(11)(k) or 58-37d-4(1)(a)] 58-37c-101(11)(k) or 76-18-506(2)(a),
the person:

7627 (a) possesses an iodine matrix without proof of obtaining the solution in compliance with Subsection
(2); or

7629 (b) offers to sell, sells, or distributes an iodine matrix in violation of Subsection (2).

7630 (7) Subsection (6)(a) does not apply to:

7631 (a) a chemistry or chemistry-related laboratory maintained by:

7632 (i) a public or private regularly established secondary school; or

7633 (ii) a public or private institution of higher education that is accredited by a regional or national
accrediting agency recognized by the United States Department of Education;

7636 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice Act;

7637 (c) a general acute hospital; or

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7638 (d) a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons who possesses an iodine matrix in the regular course of lawful business activities.

7681 Section 118. Section **58-37c-205** is renumbered and amended to read:

7683 **[58-37c-19.7] 58-37c-205. Red phosphorus is a precursor -- Penalty -- Affirmative defense.**

7645 (1) A person ~~[is guilty of a class A misdemeanor]~~ who is not licensed to engage in a regulated transaction and is not excepted from licensure ~~[who]~~ is guilty of a class A misdemeanor if, under circumstances not amounting to a violation of Subsection [58-37c-3(11)(k) or 58-37d-4(1)(a)] 58-37c-101(11)(k) or 76-18-506(2)(a), possesses any amount of red phosphorus.

7650 (2) It is an affirmative defense to a charge under Subsection (1) that the person in possession of red phosphorus:

7652 (a) is conducting a licensed business that involves red phosphorus in the manufacture of any of the following:

7654 (i) the striking surface used for lighting matches, which is sometimes referred to as the striker plate;

7656 (ii) flame retardant in polymers; or

7657 (iii) fireworks, for which the person or entity possesses a federal license to manufacture explosives as required under 27 CFR Chapter II, Part 555, Commerce in Explosives; or

7660 (b)

7662 (i) is a wholesaler, manufacturer, warehouseman, or common carrier handling red phosphorus, or is an agent of any of these persons; and

7662 (ii) possesses the substances in the regular course of lawful business activities.

7663 (3)

7664 (a)

7665 (i) A defendant shall provide written notice of intent to claim an affirmative defense under this section as soon as practicable, but not later than 10 days prior to trial.

7666 (ii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

7669 (b) The notice described in Subsection (3)(a)(i) shall include the specifics of the affirmative defense.

7671 (c)

7672 (i) The defendant shall establish the affirmative defense by a preponderance of the evidence.

7673 (ii) If the defense is established, it is a complete defense to the charges.

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7674 (4) Subsection (1) does not apply to:

7675 (a) a chemistry or chemistry-related laboratory maintained by:

7676 (i) a public or private regularly established secondary school; or

7677 (ii) a public or private institution of higher education that is accredited by a regional or national
7680 accrediting agency recognized by the United States Department of Education; or

7680 (b) a retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any
7680 of these persons who possesses red phosphorus in the regular course of lawful business activities.

7723 Section 119. Section **58-37c-206** is renumbered and amended to read:

7725 **[58-37c-19.9] 58-37c-206. Anhydrous ammonia is a precursor -- Penalty -- Requirements**
regarding purposes and containers.

7687 (1) A person ~~[is guilty of a class A misdemeanor]~~ who is not licensed to engage in a regulated
7687 transaction and is not excepted from licensure or exempted under Subsection (2), and who possesses
7687 any amount of anhydrous ammonia under circumstances not amounting to a violation of Subsection
7687 ~~[58-37c-3(11)(k) or 58-37d-4(1)(a)]~~ 58-37c-101(11)(k) or 76-18-506(2)(a), is guilty of a class A
7687 misdemeanor.

7692 (2) A person who possesses anhydrous ammonia has an affirmative defense to a charge under
7692 Subsection (1) if the person is:

7694 (a) directly involved in or actively operating land in agricultural use as defined in Section 59-2-502;

7696 (b) a retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of
7696 any of these persons, who possesses anhydrous ammonia in the regular course of lawful business
7696 activities;

7699 (c) directly involved in or actively operating a business or other lawful activity providing or using
7699 anhydrous ammonia for refrigeration applications; or

7701 (d) directly involved in or actively operating a lawful business enterprise, including an industrial
7701 enterprise, that uses anhydrous ammonia in the regular course of ~~[its]~~ the lawful business
7701 enterprise's business activities.

7744 Section 120. Section **58-37c-207** is renumbered and amended to read:

7746 **[58-37c-20] 58-37c-207. Possession of ephedrine, pseudoephedrine, or phenylpropanolamine**
-- Penalties -- Affirmative defense.

7708 (1) A person is guilty of a class A misdemeanor if the person:

7709 (a) ~~[who]~~ is not licensed to engage in regulated transactions and is not excepted from licensure; and

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7711 (b) [who,] under circumstances not amounting to a violation of Subsection [58-37e-3(11)(k) or
7712 ~~Subseetion 58-37d-4(1)(a)~~ 58-37c-101(11)(k) or 76-18-506(2)(a), possesses more than 9 grams of
7713 ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a
7714 combination of any of these substances.

7716 (2) It is an affirmative defense to a charge under Subsection (1) that the person in possession of
7717 ephedrine, pseudoephedrine, phenylpropanolamine, or a combination of these [two] substances:

7719 (a)

7721 (i) is a physician, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common
7722 carrier, or an agent of any of these persons; and

7724 (ii) possesses the substances in the regular course of lawful business activities; or

7726 (b) possesses the substance pursuant to a valid prescription as defined in Section [58-37-2] 58-37-101.

7728 (3)

7730 (a)

7732 (i) A defendant shall provide written notice of intent to claim an affirmative defense under this
7734 section as soon as practicable, but not later than 10 days prior to trial.

7736 (ii) The court may waive the notice requirement in the interest of justice for good cause shown, if
7738 the prosecutor is not unfairly prejudiced by the lack of timely notice.

7740 (b) The notice described in Subsection (3)(a)(i) shall include the specifics of the asserted defense.

7742 (c)

7744 (i) The defendant shall establish the affirmative defense by a preponderance of the evidence.

7746 (ii) If the defense is established, it is a complete defense to the charges.

7748 (4) This section does not apply to dietary supplements, herbs, or other natural products, including
7750 concentrates or extracts, which:

7752 (a) are not otherwise prohibited by law; and

7754 (b) may contain naturally occurring ephedrine, ephedrine alkaloids, or pseudoephedrine, or their salts,
7756 isomers, or salts of isomers, or a combination of these substances, that:

7758 (i) are contained in a matrix of organic material; and

7760 (ii) do not exceed 15% of the total weight of the natural product.

7762 Section 121. Section **58-37c-208** is renumbered and amended to read:

7764 **[58-37e-20.5] 58-37c-208. Pseudoephedrine products -- Limitations on retail sale -- Penalty.**

7766 (1) As used in this section:

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7747 (a) "Mobile retail vendor" means a person or entity that sells product at retail from a stand that is intended to be temporary, or that is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility or is located on unimproved real estate[; and] .

7751 (b) "Product" means any product, mixture, or preparation, or any combination of products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or isomers, or salts of optical isomers, or a combination of any of these substances.

7755 (2) A retail distributor or a mobile retail vendor may not distribute or sell any product that exceeds the threshold amount of 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or any combination of these, regardless of the number of transactions, during any 24-hour period.

7759 (3) A mobile retail vendor may not distribute or sell any product that exceeds the threshold amount of 7.5 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, regardless of the number of transactions, during any 30-day period.

7762 (4) A retail distributor or a mobile retail vendor may not distribute or sell any product, unless the retail distributor or mobile retail vendor:

7764 (a) stores the product in an area not accessible to customers [prior to] before the sale, which area may include a locked cabinet to display the product in an area accessible to customers, if the locked cabinet may be opened only by the retail distributor or mobile retail vendor or [its] the employees of the retail distributor or mobile retail vendor;

7769 (b) stores all nonliquid scheduled listed chemical products in packaging containing blister packs, with each blister containing no more than two dosage units;

7771 (c) requires the purchaser of the product to provide photo identification issued by a governmental agency and that includes the purchaser's date of birth;

7773 (d) maintains a written or electronic log under Subsection (5) of the sales made under this section; and

7775 (e) provides a notice concerning federal penalties for making false statements or misrepresentations, as provided in Subsection (5)(d).

7777 (5)

7780 (a) Each retail distributor or mobile retail vendor shall maintain an electronic or written log that contains the following information regarding each person to whom product is distributed or sold under this section.

(b) The log described in Subsection (5)(a) shall include:

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7781 [({a})] (i) the following information, provided or written in the log by the purchaser:

7782 [({i})] (A) the purchaser's name, address, and date of birth, as demonstrated by a form of personal identification issued by the state or the federal government and that provides an identifying photograph of the person;

7785 [({ii})] (B) the date and time of the transaction; and

7786 [({iii})] (C) the purchaser's signature; and

7787 [({b})] (ii) the following information verified or written in by the retail distributor or the mobile retail vendor:

7789 [({i})] (A) verification of the identity of the purchaser as indicated by the form of identification presented by the purchaser;

7791 [({ii})] (B) verification that the date and time of the transaction as entered in the log is correct; and

7793 [({iii})] (C) entry of the brand name and the quantity of the product sold in the transaction.

7795 (c) The retail distributor or the mobile retail vendor shall maintain the information required to be recorded in a log under Subsections (5)(a) and (b) for not less than two years from the most recent date contained in the log.

7798 (d) In addition to the log information required under this Subsection (5), the log, or a prominently displayed sign, shall contain the following statement verbatim which shall be visible to purchasers of product:

7801 "WARNING: Section 1001 of Title 18, United States Code, states that whoever, with respect to the information to be provided in this log, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document, knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, shall be fined not more than \$250,000 if an individual or \$500,000 if an organization, imprisoned for not more than five years, or both."

7808 (6)

(a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any person or entity any information in or obtained from a log maintained by a retail distributor or a mobile retail vendor under this section for any purpose other than those specified in Subsection (6) (b).

7812

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(b) The retail distributor or [its] the retail distributor's designee shall make information in the log available only to:

7814 (i) federal, state, and local law enforcement authorities engaged as a duty of their employment in enforcing laws regulating controlled substances; and

7816 (ii) an individual:

7817 (A) whose request is for records in the log of that individual's purchase or receipt of product; and

7819 (B) who has provided evidence satisfactory to the retail distributor that the individual is in fact the person regarding whom the requested log entry is made.

7821 (c) Any person who knowingly and intentionally releases or modifies any information in the log in violation of this Subsection (6) is guilty of a class B misdemeanor.

7823 (7)

(a) A person may not purchase product that exceeds the threshold amount of 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or any combination of these, regardless of the number of transactions, during any 24-hour period.

7826 (b) A person may not purchase product that exceeds the threshold amount of 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or any combination of these, regardless of the number of transactions, during any 30-day period.

7829 (c) A violation of this Subsection (7) is a class B misdemeanor.

7830 (8) This section does not apply to any quantity of product possessed by:

7831 (a) a physician, pharmacist, veterinarian, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or any agent of these persons, who possess the product in the regular course of lawful business activities; or

7834 (b) a person who possesses the product pursuant to a valid prescription as defined in Section [58-37-2] 58-37-101.

7836 (9) This section does not apply to dietary supplements, herbs, or other natural products, including concentrates or extracts, which:

7838 (a) are not otherwise prohibited by law; and

7839 (b) may contain naturally occurring ephedrine, ephedrine alkaloids, or pseudoephedrine, or their salts, isomers, or salts of isomers, or a combination of these substances, that:

7841 (i) are contained in a matrix of organic material; and

7842 (ii) do not exceed 15% of the total weight of the natural product.

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7843 (10) This section does not apply to an individual sales transaction in which the purchaser purchases a single package containing no more than 60 mg of pseudoephedrine.

7845 (11)

(a) A violation of this section is a class B misdemeanor, and a second or subsequent violation of this section is a class A misdemeanor.

7847 (b) For purposes of this section, a plea of guilty or no contest to a violation of this section [which] that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction for a violation of this section, even if the charge has been subsequently reduced or dismissed in accordance with a plea in abeyance agreement.

7852 (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

7895 Section 122. Section **58-37e-101** is renumbered and amended to read:

CHAPTER 37e. Drug Dealer Liability

[58-37e-2] 58-37e-101. Definitions.

As used in this chapter:

7860 (1) "Illegal drug" means a drug or controlled substance whose distribution is a violation of state law.

7862 (2) "Illegal drug market" means the support system of illegal drug-related operations, from production to retail sales, through which an illegal drug reaches the user.

7864 (3) "Illegal drug market target community" is the area described in Section [58-37e-7] **58-37e-106**.

7866 (4) "Individual drug user" means the individual whose illegal drug use is the basis of an action brought under this chapter.

7868 (5) "Level 1 offense" means:

7869 (a) possession of 16 ounces or more [or distribution of four ouncees or more] of a mixture containing a specified illegal drug;

7871 (b) distribution of four ounces or more of a mixture containing a specified illegal drug;

7872 (c) [or] possession of 16 pounds or more, or 100 plants or more, of marijuana; or

7873 (d) distribution of 10 pounds or more of marijuana.

7874 (6) "Level 2 offense" means:

7875 (a) possession of eight ounces or more, but less than 16 ounces, [or distribution of two ouncees or more, but less than four ouncees,] of a mixture containing a specified illegal drug;

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7878 (b) [or] distribution of two ounces or more, but less than four ounces, of a mixture containing a specified illegal drug;

7880 (c) possession of eight pounds or more, or 75 plants or more, but less than 16 pounds or 100 plants, of marijuana; or

7882 (d) distribution of more than five pounds, but less than 10 pounds, of marijuana.

7883 (7) "Level 3 offense" means:

7884 (a) possession of four ounces or more, but less than eight ounces, [or distribution of one ounce or more, but less than two ounces,] of a mixture containing a specified illegal drug[or] ;

7887 (b) distribution of one ounce or more, but less than two ounces, of a mixture containing a specified illegal drug;

7889 (c) possession of four pounds or more, or 50 plants or more, but less than eight pounds or 75 plants, of marijuana; or

7891 (d) distribution of more than one pound, but less than five pounds of marijuana.

7892 (8) "Level 4 offense" means:

7893 (a) possession of 1/4 ounce or more, but less than four ounces, [or distribution of less than one ounce] of a mixture containing a specified illegal drug[or] ;

7895 (b) distribution of less than one ounce of a mixture containing a specified illegal drug;

7896 (c) possession of one pound or more, or 25 plants or more, but less than four pounds or 50 plants, of marijuana; or

7898 (d) distribution of less than one pound of marijuana.

7899 (9)

7903 (a) "Participate in the illegal drug market" means to distribute, possess with an intent to distribute, commit an act intended to facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing and distribution of an illegal drug.

7905 (b) "Participate in the illegal drug market" does not include the purchase or receipt of an illegal drug for personal use only.

7908 (10)

7909 (a) "Period of illegal drug use" means, in relation to the individual drug user, the time of the individual's first use of an illegal drug to the accrual of the cause of the action.

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(b) The period of illegal drug use is presumed to commence two years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

7911 (11) "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or foreign country.

7914 (12) "Place of illegal drug activity" means, in relation to the individual drug user, each county in which the individual possesses or uses an illegal drug or in which the individual resides, attends school, or is employed during the period of the individual's illegal drug use, unless the defendant proves otherwise by clear and convincing evidence.

7918 (13) "Place of participation" means, in relation to a defendant in an action brought under this chapter, each county in which the person participates in the illegal drug market or in which the person resides, attends school, or is employed during the period of the person's participation in the illegal drug market.

7922 (14) "Specified illegal drug" means cocaine, heroin, or methamphetamine and any other controlled substance, the distribution of which is a violation of state law.

7964 Section 123. Section **58-37e-102** is renumbered and amended to read:

7966 **[58-37e-3] 58-37e-102. Liability for participation in the illegal drug market -- Exemption.**

7928 (1)

7930 (a) A person who knowingly participates in the illegal drug market within this state is liable for civil damages as provided in this chapter.

(b) A person may recover damages under this chapter for injury resulting from an individual's use of an illegal drug.

7932 (2) A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state, is not liable for participating in the illegal drug market, if the participation is in furtherance of an official investigation.

7975 Section 124. Section **58-37e-103** is renumbered and amended to read:

7977 **[58-37e-4] 58-37e-103. Recovery of damages.**

7938 (1) One or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug:

7940 (a) a parent, legal guardian, child, spouse, or sibling of the individual drug user;

7941 (b) an individual who was exposed to an illegal drug in utero;

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7942 (c) an employer of the individual drug user;

7943 (d) a medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user; or

7946 (e) a person injured as a result of the willful, reckless, or negligent actions of an individual drug user.

7948 (2) A person entitled to bring an action under this section may seek damages from one or more of the following:

7950 (a) a person who knowingly distributed, or knowingly participated in the chain of distribution of, an illegal drug that was actually used by the individual drug user; and

7952 (b) a person who knowingly participated in the illegal drug market if:

7953 (i) the place of illegal drug activity by the individual drug user is within the illegal drug market target community of the defendant;

7955 (ii) the defendant's participation in the illegal drug market was connected with the same type of illegal drug used by the individual drug user; and

7957 (iii) the defendant participated in the illegal drug market at any time during the individual drug user's period of illegal drug use.

7959 (3) A person entitled to bring an action under this section may recover all of the following damages:

7961 (a) economic damages, including the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug use;

7965 (b) noneconomic damages, including physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other nonpecuniary losses proximately caused by an individual's use of an illegal drug;

7969 (c) exemplary damages;

7970 (d) reasonable [attorney's] attorney fees; and

7971 (e) costs of suit, including reasonable expenses for expert testimony.

8012 Section 125. Section **58-37e-104** is renumbered and amended to read:

8014 **[58-37e-5] 58-37e-104. Limited recovery of damages by individual drug user.**

7976 (1)

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(a) An individual drug user may not bring an action for damages caused by the use of an illegal drug, except as otherwise provided in this section.

7978 (b) An individual drug user may bring an action for damages caused by the use of an illegal drug only if all of the following conditions are met:

7980 [({a})] (i) the individual personally discloses to narcotics enforcement authorities, more than six months before filing the action, all of the information known to the individual regarding all that individual's sources of illegal drugs;

7983 [({b})] (ii) the individual has not used an illegal drug within the six months before filing the action; and

7985 [({c})] (iii) the individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

7987 (2) [A person] An individual entitled to bring an action under this section may seek damages only from a person who distributed, or is in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

7990 (3) [A person] An individual entitled to bring an action under this section may recover only the following damages:

7992 (a) economic damages, including the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and any other pecuniary loss proximately caused by the [person's] individual's illegal drug use;

7996 (b) reasonable attorney's fees; and

7997 (c) costs of suit, including reasonable expenses for expert testimony.

8038 Section 126. Section **58-37e-105** is renumbered and amended to read:

8040 **[58-37e-6]-58-37e-105. Third party cases.**

A third party may not pay damages awarded under this chapter, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

8043 Section 127. Section **58-37e-106** is renumbered and amended to read:

8045 **[58-37e-7]-58-37e-106. Illegal drug market target community.**

A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

8008 (1) Level 4: the county in which the defendant's place of participation is situated;

8009 (2) Level 3: the target community described in Subsection (1) plus all counties with a border contiguous to that target community;

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8011 (3) Level 2: the target community described in Subsection (2) plus all counties with a border contiguous
8012 to that target community;

8013 (4) Level 1: the state.

8054 Section 128. Section **58-37e-107** is renumbered and amended to read:

8056 **[58-37e-8]-58-37e-107. Joinder of parties.**

8017 (1) Two or more persons may join in one action under this chapter as plaintiffs if their respective
8018 actions have at least one place of illegal drug activity in common and if any portion of the period of
8019 illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

8021 (2) Two or more persons may be joined in one action under this chapter as defendants if those persons
8022 are liable to at least one plaintiff.

8023 (3)

8024 (a) A plaintiff need not be interested in obtaining, and a defendant need not be interested in defending,
8025 against all the relief demanded.

8026 (b) Judgment may be given for one or more plaintiffs according to their respective rights to relief and
8027 against one or more defendants according to their respective liabilities.

8067 Section 129. Section **58-37e-108** is renumbered and amended to read:

8069 **[58-37e-9]-58-37e-108. Comparative responsibility.**

8030 (1)

8031 (a) An action by an individual drug user is governed by the principles of comparative responsibility.

8032 (b) Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award
8033 of compensatory damages proportionally, according to the measure of responsibility attributed to the
8034 plaintiff.

8035 (2) The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall
8036 be shown by clear and convincing evidence.

8037 (3) Comparative responsibility may not be applied in an action brought by a third party who was not an
8038 individual drug user.

8079 Section 130. Section **58-37e-109** is renumbered and amended to read:

8081 **[58-37e-10]-58-37e-109. Contribution among and recovery from multiple defendants.**

8043 (1) A person subject to liability under this chapter has a right of action for contribution against another
8044 person subject to liability under this chapter.

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(2) Contribution may be enforced either in the original action or by a separate action brought for that purpose.

8047 (3) A plaintiff may seek recovery in accordance with this chapter and existing law against a person whom a defendant has asserted a right of contribution.

8089 Section 131. Section **58-37e-110** is renumbered and amended to read:

8091 **[58-37e-11] 58-37e-110. Standard of proof -- Effect of criminal drug conviction.**

8053 (1)

(a) Proof of participation in the illegal drug market in an action brought under this chapter shall be shown by clear and convincing evidence.

8055 (b) Except as otherwise provided in this chapter, other elements of the cause of action shall be shown by a preponderance of the evidence.

8057 (2)

(a) A person against whom recovery is sought who has a criminal conviction pursuant to state drug laws or the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91-513, 84 Stat. 1236, codified at 21 U.S.C. Sec. 801 et seq., is estopped from denying participation in the illegal drug market.

8061 (b) A conviction is also prima facie evidence of the person's participation in the illegal drug market during the two years preceding the date of an act giving rise to a conviction.

8064 (3) The absence of a criminal drug conviction of a person against whom recovery is sought does not bar an action against that person.

8106 Section 132. Section **58-37e-111** is renumbered and amended to read:

8108 **[58-37e-12] 58-37e-111. Prejudgment attachment and execution on judgments.**

8070 (1)

(a) A plaintiff under this chapter, subject to Subsection (3), may request an ex parte prejudgment writ of attachment from the court pursuant to Utah Rules of Civil Procedure, Rule 64A, against all assets of a defendant sufficient to satisfy a potential award.

8074 (b) If attachment is instituted, a defendant is entitled to an immediate hearing.

8075 (c) Attachment may be lifted if the defendant:

8076 (i) demonstrates that the assets will be available for a potential award; or [if the defendant]
8078 (ii) posts a bond sufficient to cover a potential award.

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(2) A person against whom a judgment has been rendered under this chapter is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment, unless the property is exempt by operation of law.

8082 (3) Any assets sought to satisfy a judgment under this chapter that are named in a forfeiture action or have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

8126 Section 133. Section **58-37e-112** is renumbered and amended to read:

8128 **[58-37e-13]-58-37e-112. Statute of limitations.**

8089 (1)

(a) Except as otherwise provided in this section, a claim under this chapter may not be brought more than two years after the cause of action accrues.

8091 (b) A cause of action accrues under this chapter when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of the harm.

8094 (2)

(a) For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery under this chapter or as otherwise provided by law.

8098 (b) For a defendant, the statute of limitations under this section is tolled until six months after the individual potential defendant is convicted of a criminal drug offense or as otherwise provided by law.

8101 (3) The statute of limitations under this chapter for a claim based on participation in the illegal drug market that occurred ~~[prior to the effective date of this chapter]~~ before May 5, 1997, does not begin to run until ~~[the effective date of this chapter]~~ May 5, 1997.

8144 Section 134. Section **58-37e-113** is renumbered and amended to read:

8146 **[58-37e-14]-58-37e-113. Representation of governmental entities -- Stay of action.**

8108 (1) A county attorney, district attorney, or city attorney may represent any political subdivision of the state, and the attorney general may represent the state in an action brought under this chapter.

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(2) On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this chapter shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

8154 Section 135. Section **58-37f-102** is amended to read:

8155 **58-37f-102. Definitions.**

8116 (1) The definitions in Section [58-37-2] 58-37-101 apply to this chapter.

8117 (2) As used in this chapter:

8118 (a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

8119 (b) "Business associate" is as defined under the HIPAA privacy, security, and breach notification rules in 45 C.F.R. 164.502(a), 164.504(e), and 164.532(d) and (e).

8121 (c) "Database" means the controlled substance database created in Section 58-37f-201.

8122 (d) "De-identified" is as defined in 45 C.F.R. 164.502(d) and 164.514(a), (b), and (c).

8123 (e) "Health care facility" is as defined in Section 26B-2-201.

8124 (f) "Mental health therapist" is as defined in Section 58-60-102.

8125 (g) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.

8126 (h) "Prospective patient" means an individual who:

8127 (i) is seeking medical advice, medical treatment, or medical services from a practitioner; and

8129 (ii) the practitioner described in Subsection (2)(h)(i) is considering accepting as a patient.

8131 (i) "Substance abuse treatment program" is as defined in Section 26B-2-101.

8172 Section 136. Section **58-37f-201** is amended to read:

8173 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

8135 (1) There is created within the division a controlled substance database.

8136 (2) The division shall administer and direct the functioning of the database in accordance with this chapter.

8138 (3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

8140 (4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

8143 (5) The purpose of the database is to contain:

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- (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed controlled substances;
- (b) data reported to the division under Section 26B-2-225 regarding poisoning or overdose;
- (c) data reported to the division under Subsection 41-6a-502(5) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and
- (d) data reported to the division under Subsection [58-37-8(1)(e) or 58-37-8(2)(g)] 76-18-207(8), 76-18-208(8), 76-18-209(9), 76-18-210(9), 76-18-211(7), 76-18-212(6), or 76-18-213(6) regarding certain violations of [~~Chapter 37, Utah Controlled Substances Act~~] Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

- (a) prescribing practices and patterns of prescribing and dispensing controlled substances;
- (b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;
- (c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance;
- (d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy;
- (e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and
- (f) individuals convicted for:
- (i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;
- (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or
- (iii) certain violations of [~~Chapter 37, Utah Controlled Substances Act~~] Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a violation described in a statute previously in effect in this state that is the same or substantially similar to a violation described in Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.

Section 137. Section **58-37f-301** is amended to read:

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58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (a) effectively enforce the limitations on access to the database as described in this part; and
- (b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

- (a)
 - (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and
 - (ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:
 - (A) a law enforcement agency officer who is engaged in a joint investigation with the division; and
 - (B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;
 - (b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;
 - (c) a board member if:
 - (i) the board member is assigned to monitor a licensee on probation; and
 - (ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;
 - (d) a person the division authorizes to obtain that information on behalf of the Utah Professionals Health Program established in Subsection 58-4a-103(1) if:
 - (i) the person the division authorizes is limited to obtaining information from the database regarding the person whose conduct is the subject of the division's consideration; and
 - (ii) the conduct that is the subject of the division's consideration includes a violation or a potential violation of ~~Chapter 37, Utah Controlled Substances Act~~ Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a violation

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described in a statute previously in effect in this state that is the same or substantially similar to a violation described in Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or another relevant violation or potential violation under this title;

8217 (e) in accordance with a written agreement entered into with the department, employees of the Department of Health and Human Services:

8219 (i) whom the director of the Department of Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

8224 (ii) when the information is requested by the Department of Health and Human Services in relation to a person or provider whom the Department of Health and Human Services suspects may be improperly obtaining or providing a controlled substance; or

8228 (iii) in the medical examiner's office;

8229 (f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health and Human Services, who is not an employee of the Department of Health and Human Services, whom the director of the Department of Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health and Human Services, if:

8235 (i) the designee provides explicit information to the Department of Health and Human Services regarding the purpose of the scientific studies;

8237 (ii) the scientific studies to be conducted by the designee:

8238 (A) fit within the responsibilities of the Department of Health and Human Services for health and welfare;

8240 (B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services;

8243 (C) are not conducted for profit or commercial gain; and

8244 (D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

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- (iii) the designee protects the information as a business associate of the Department of Health and Human Services; and
- 8250 (iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, and not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;
- 8253 (g) in accordance with a written agreement entered into with the department and the Department of Health and Human Services, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:
- 8256 (i) the managed care organization contracts with the Department of Health and Human Services under the provisions of Section 26B-3-202 and the contract includes provisions that:
- 8259 (A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and
- 8261 (B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health and Human Services to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and
- 8265 (ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;
- 8269 (h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:
 - 8271 (i)
 - (A) relates specifically to a current or prospective patient of the practitioner; and
 - 8272 (B) is provided to or sought by the practitioner for the purpose of:
 - 8273 (I) prescribing or considering prescribing any controlled substance to the current or prospective patient;
 - 8275 (II) diagnosing the current or prospective patient;
 - 8276 (III) providing medical treatment or medical advice to the current or prospective patient; or
 - 8278 (IV) determining whether the current or prospective patient:
 - 8279 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or
 - 8281 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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8283 (ii)

(A) relates specifically to a former patient of the practitioner; and

8284 (B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

8287 (iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

8292 (iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

8294 (v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

8296 (vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

8299 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

8301 (i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

8303 (ii) the practitioner provides written notice to the division of the identity of the employee; and

8305 (iii) the division:

8306 (A) grants the employee access to the database; and

8307 (B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;

8310 (j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

8312 (i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

8314 (ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

8316 (iii) the division:

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8317 (A) grants the employee access to the database; and

8318 (B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;

8321 (k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

8325 (i) dispensing or considering dispensing any controlled substance;

8326 (ii) determining whether a person:

8327 (A) is attempting to fraudulently obtain a controlled substance from the pharmacy, practitioner, or health care facility; or

8329 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacy, practitioner, or health care facility;

8331 (iii) reporting to the controlled substance database; or

8332 (iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

8335 (l) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

8337 (i) one or more controlled substances; and

8338 (ii) a specific person who is a subject of the investigation;

8339 (m) subject to Subsection (7), a probation or parole officer, employed by the Division of Adult Probation and Parole created in Section 64-14-202 or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

8344 (n) employees of the Office of Internal Audit within the Department of Health and Human Services who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26B-3-104;

8347 (o) a mental health therapist, if:

8348 (i) the information relates to a patient who is:

8349 (A) enrolled in a licensed substance abuse treatment program; and

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(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A);

8353 (ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A); and

8356 (iii) the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A) is associated with a practitioner who:

8358 (A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

8360 (B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(o), from the database;

8363 (p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

8367 (q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

8371 (r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

8374 (s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

8378 (i) a member of the medical panel described in Section 34A-2-601;

8379 (ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

8381 (iii) a physician offering a second opinion regarding treatment;

8382 (t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities;

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8385 (u) a licensed pharmacist who is authorized by a managed care organization as defined in Section
31A-1-301 to access the information on behalf of the managed care organization, if:

8388 (i) the managed care organization believes that an enrollee of the managed care organization has
obtained or provided a controlled substance in violation of a medication management program
contract between the enrollee and the managed care organization; and

8392 (ii) the managed care organization included a description of the medication management program in the
enrollee's outline of coverage described in Subsection 31A-22-605(7); and

8395 (v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the purpose of
investigating active cases, in exercising the unit's authority to investigate and prosecute Medicaid
fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

8399 (3)

(a) A practitioner described in Subsection (2)(h) may designate one or more employees to access
information from the database under Subsection (2)(i), (2)(j), or (4)(c).

8402 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, to:

8404 (i) establish background check procedures to determine whether an employee designated under
Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

8407 (ii) establish the information to be provided by an emergency department employee under Subsection
(4); and

8409 (iii) facilitate providing controlled substance prescription information to a third party under Subsection
(5).

8411 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to
the database, unless the division determines, based on a background check, that the employee poses
a security risk to the information contained in the database.

8415 (4)

(a) An individual who is employed in the emergency department of a hospital may exercise access
to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is
designated under Subsection (4)(c) and the licensed practitioner:

8419 (i) is employed or privileged to work in the emergency department;

8420 (ii) is treating an emergency department patient for an emergency medical condition; and

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- (iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.
- 8425 (b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3) (b).
- 8429 (c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:
- 8431 (i) the employee is designated by the hospital as an individual authorized to access the information on behalf of the emergency department practitioner;
- 8433 (ii) the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and
- 8435 (iii) the division:
 - 8436 (A) grants the employee access to the database; and
 - 8437 (B) provides the employee with a password that is unique to that employee to access the database.
- 8439 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3) (b).
- 8443 (5)
 - (a)
 - (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.
 - 8446 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.
 - 8450 (b) The information the division shall provide under Subsection (5)(a) is:
- 8451

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- (i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and
- (ii) the date the controlled substance was dispensed.

8453 (c)

- (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.
- (ii) The division shall:

8456 (A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

8457 (B) discontinue providing information to the third party.

8459 (6)

- (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.
- (b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

8463 (7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(m).

8466 (8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

8471 (a) to protect patient privacy;

8472 (b) to reduce inappropriate access; and

8473 (c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

8476 (9) Any person who knowingly and intentionally accesses the database without express authorization under this section is guilty of a class A misdemeanor.

8524 Section 138. Section **58-37f-303** is amended to read:

8525 **58-37f-303. Access to opioid prescription information via an electronic data system.**

8481 (1) As used in this section:

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8482 (a) "Dispense" means the same as that term is defined in Section 58-17b-102.

8483 (b) "EDS user":

8484 (i) means:

8485 (A) a prescriber;

8486 (B) a pharmacist;

8487 (C) a pharmacy intern;

8488 (D) a pharmacy technician; or

8489 (E) an individual granted access to the database under Subsection 58-37f-301(3)(c); and

8491 (ii) does not mean an individual whose access to the database has been revoked by the division pursuant to Subsection 58-37f-301(5)(c).

8493 (c) "Electronic data system" means a software product or an electronic service used by:

8494 (i) a prescriber to manage electronic health records; or

8495 (ii) a pharmacist, pharmacy intern, or pharmacy technician working under the general supervision of a licensed pharmacist, for the purpose of:

8497 (A) managing the dispensing of prescription drugs; or

8498 (B) providing pharmaceutical care as defined in Section 58-17b-102 to a patient.

8499 (d) "Opioid" means any substance listed in Subsection [58-37-4(2)(b)(i)] 58-37-108(2)(b)(i) or (2)(b)(ii).

8501 (e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

8502 (f) "Prescriber" means a practitioner, as that term is defined in Section [58-37-2] 58-37-101, who is licensed under Section [58-37-6] 58-37-105 to prescribe an opioid.

8504 (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

8505 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make opioid prescription information in the database available to an EDS user via the user's electronic data system.

8508 (3) An electronic data system may be used to make opioid prescription information in the database available to an EDS user only if the electronic data system complies with rules established by the division under Subsection (4).

8511 (4)

(a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

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8513 (i) an electronic data system's:

8514 (A) allowable access to and use of opioid prescription information in the database; and

8516 (B) minimum actions that must be taken to ensure that opioid prescription information accessed from the database is protected from inappropriate disclosure or use; and

8519 (ii) an EDS user's:

8520 (A) allowable access to opioid prescription information in the database via an electronic data system; and

8522 (B) allowable use of the information.

8523 (b) The rules shall establish:

8524 (i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

8526 (ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

8528 (iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database that has been made available to an EDS user via an electronic data system.

8532 (5) The division may not make opioid prescription information in the database available to an EDS user via the user's electronic data system if:

8534 (a) the electronic data system does not comply with the rules established by the division under Subsection (4); or

8536 (b) the EDS user does not comply with the rules established by the division under Subsection (4).

8538 (6)

8540 (a) The division shall periodically audit the use of opioid prescription information made available to an EDS user via the user's electronic data system.

8541 (b) The audit shall review compliance by:

8543 (i) the electronic data system with rules established by the division under Subsection (4); and

8544 (ii) the EDS user with rules established by the division under Subsection (4).

(c)

(i) If the division determines by audit or other means that an electronic data system is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to opioid prescription information in the database.

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8548 (ii) If the division determines by audit or other means that an EDS user is not in compliance with rules
8548 established by the division under Subsection (4), the division shall immediately suspend or revoke
8548 the EDS user's access to opioid prescription information in the database via an electronic data
8548 system.

8552 (iii) If the division suspends or revokes access to opioid prescription information in the database under
8552 Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or
8552 disciplinary action authorized by this chapter or title.

8602 Section 139. Section **58-37f-304** is amended to read:

8603 **58-37f-304. Database utilization.**

8558 (1) As used in this section:

8559 (a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, the pharmacist's
8559 licensed intern, as described in Section 58-17b-304, or licensed pharmacy technician, as described
8559 in Section 58-17b-305, working under the supervision of a licensed pharmacist who is also licensed
8559 to dispense a controlled substance under ~~[Title 58, Chapter 37, Utah Controlled Substances
8559 Act] Chapter 37, Controlled Substances.~~

8565 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a
8565 healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare
8565 facility for an overnight stay.

8568 (c) "Prescriber" means an individual authorized to prescribe a controlled substance under ~~[Title 58,
8568 Chapter 37, Utah Controlled Substances Act] Chapter 37, Controlled Substances.~~

8571 (d) "Schedule II opioid" means those substances listed in Subsection ~~[58-37-4(2)(b)(i)]~~ **58-37-108(2)(b)**
8571 ~~(i)~~ or **(2)(b)(ii)**.

8573 (e) "Schedule III opioid" means those substances listed in Subsection ~~[58-37-4(2)(e)]~~ **58-37-108(2)(c)**
8573 that are opioids.

8575 (2)
8575 (a) A prescriber shall check the database for information about a patient before the first time the
8575 prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

8578 (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the
8578 prescriber shall periodically review information about the patient in:

8580 (i) the database; or

8581 (ii) other similar records of controlled substances the patient has filled.

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8582 (c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

8584 (d)

(i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

8587 (A) is connected to the database through a connection that has been approved by the division; and

8589 (B) displays the information from the database in a prominent manner for the prescriber.

8591 (ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.

8593 (e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

8595 (i) is necessary due to an emergency situation;

8596 (ii) is caused by a suspension or disruption in the operation of the database; or

8597 (iii) is caused by a failure in the operation or availability of the Internet.

8598 (f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

8600 (i) December 31, 2018; or

8601 (ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

8604 (3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

8606 (a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

8609 (b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section [58-37-6.5] 58-37-303, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

8614 (4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt

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to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

8620 (5)

- (a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:
- (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;
- (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health and Human Services; or
- (iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Medical Licensing Board.

8630 (b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.

8632 (c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.

8634 (d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.

8638 (e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.

8640 (6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

8689 Section 140. Section **58-37f-401** is amended to read:

8690 **58-37f-401. Database registration required -- Penalties for failure to register.**

8646 (1) Each individual, other than a veterinarian, who, on June 30, 2010, has a license to prescribe a controlled substance under ~~Chapter 37, Utah Controlled Substances Act~~ Chapter 37, Controlled Substances, but is not registered with the division to use the database shall, on or before September 30, 2010, register with the division to use the database.

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8651 (2)

(a) An individual who is not a veterinarian, who obtains a new license to prescribe a controlled substance under ~~[Chapter 37, Utah Controlled Substances Act]~~ Chapter 37, Controlled Substances, shall, within 30 days after the day on which the individual obtains a license to prescribe a controlled substance from the Drug Enforcement Administration, register with the division to use the database.

8656 (b) An individual who is not a veterinarian may not renew a license to prescribe a controlled substance under ~~[Chapter 37, Utah Controlled Substances Act]~~ Chapter 37, Controlled Substances, unless the individual registers with the division to use the database.

8660 (3) Beginning on November 2, 2012, in order to register to use the database, the individual registering must participate in the online tutorial and pass the online test described in Section 58-37f-402.

8663 (4) Failure by an individual to comply with the requirements of this section is grounds for the division to take the following actions in accordance with Section 58-1-401:

8665 (a) refuse to issue a license to the individual;

8666 (b) refuse to renew the individual's license; or

8667 (c) revoke, suspend, restrict, or place on probation the license.

8668 (5) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, impose an annual database registration fee on an individual who registers to use the database, to pay the startup and ongoing costs of the division for complying with the requirements of this section.

8718 Section 141. Section **58-37f-502** is amended to read:

8719 **58-37f-502. Use of dedicated credits -- Controlled Substance Database -- Collection of penalties.**

8675 (1) The director may use the money deposited in the General Fund as a dedicated credit under Subsections ~~[58-37-6(8)(a)]~~ 58-37-304(16), 58-37f-601(3)(d), and 58-37f-602(2) for the following purposes:

8678 (a) maintenance and replacement of the database equipment, including hardware and software;

8680 (b) training of staff; and

8681 (c) pursuit of external grants and matching funds.

8682 (2) The director of the division may collect any penalty imposed under Subsections ~~[58-37-6(8)(a)]~~ 58-37-304(16), 58-37f-601(3)(d), and 58-37f-602(2) and which is not paid by:

8685 (a) referring the matter to the Office of State Debt Collection or a collection agency; or

8686

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(b) bringing an action in the district court of the county in which the person owing the debt resides or in the county where the office of the director is located.

8688 (3) The director may seek legal assistance from the attorney general or the county or district attorney of the district in which the action is brought to collect the fine.

8690 (4) The court shall award reasonable attorney fees and costs to the division for successful collection actions under Subsection (2)(b).

8738 Section 142. Section **58-37f-702** is amended to read:

8739 **58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a practitioner.**

8695 (1)

(a) The division shall take the actions described in Subsection (1)(b) if the division receives a report from a general acute hospital under Section 26B-2-225 regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance.

8699 (b) The division shall, within three business days after the day on which a report in Subsection (1)(a) is received:

8701 (i) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and

8703 (ii) provide each practitioner identified under Subsection (1)(b)(i) with:

8704 (A) a copy of the report provided by the general acute hospital under Section 26B-2-225; and

8706 (B) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.

8709 (2)

(a) When the division receives a report from the medical examiner under Section 26B-8-210 regarding a death caused by poisoning or overdose involving a prescribed controlled substance, for each practitioner identified by the medical examiner under Subsection 26B-8-210(1)(c), the division:

8713 (i) shall, within five business days after the day on which the division receives the report, provide the practitioner with a copy of the report; and

8715 (ii) may offer the practitioner an educational visit to review the report.

8716 (b) A practitioner may decline an educational visit described in Subsection (2)(a)(ii).

8717 (c) The division may not use, in a licensing investigation or action by the division:

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8718 (i) information from an educational visit described in Subsection (2)(a)(ii); or
8719 (ii) a practitioner's decision to decline an educational visit described in Subsection (2)(a)(ii).
8721 (3) It is the intent of the Legislature that the information provided under Subsection (1) or (2) is
provided for the purpose of assisting the practitioner in:
8723 (a) discussing with the patient or others issues relating to the poisoning or overdose;
8724 (b) advising the patient or others of measures that may be taken to avoid a future poisoning or overdose;
and
8726 (c) making decisions regarding future prescriptions written for the patient or others.
8727 (4) Any record created by the division as a result of an educational visit described in Subsection (2)
(a)(ii) is a protected record for purposes of Title 63G, Chapter 2, Government Records Access and
Management Act.
8730 (5) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase
the licensing fee described in Subsection [58-37-6(1)(b)] 58-37-105(1)(b) to pay the startup and
ongoing costs of the division for complying with the requirements of this section.
8780 Section 143. Section **58-37f-703** is amended to read:
8781 **58-37f-703. Entering certain convictions into the database and reporting them to
practitioners.**
8737 (1) When the division receives a report from a court under Subsection 41-6a-502(5) or 41-6a-502.5(5)
(b) relating to a conviction for driving under the influence of, or while impaired by, a prescribed
controlled substance, the division shall:
8740 (a) daily enter into the database the information supplied in the report, including the date on which the
person was convicted;
8742 (b) attempt to identify, through the database, each practitioner who may have prescribed the controlled
substance to the convicted person; and
8744 (c) provide each practitioner identified under Subsection (1)(b) with:
8745 (i) a copy of the information provided by the court; and
8746 (ii) the information obtained from the database that led the division to determine that the practitioner
receiving the information may have prescribed the controlled substance to the convicted person.
8749 (2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided
for the purpose of assisting the practitioner in:
8751 (a) discussing the manner in which the controlled substance may impact the convicted person's driving;

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8753 (b) advising the convicted person on measures that may be taken to avoid adverse impacts of the controlled substance on future driving; and

8755 (c) making decisions regarding future prescriptions written for the convicted person.

8756 (3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection [58-37-6(1)(b)] 58-37-105(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

8806 Section 144. Section **58-37f-704** is amended to read:

8807 **58-37f-704. Entering certain convictions into the database.**

Beginning October 1, 2016, if the division receives a report from a court under Subsection [58-37-8(1)(e) or 58-37-8(2)(g)]76-18-207(8), 76-18-208(8), 76-18-209(9), 76-18-210(9), 76-18-211(7), 76-18-212(6), or 76-18-213(6), the division shall daily enter into the database the information supplied in the report.

8812 Section 145. Section **58-38a-102** is amended to read:

8813 **58-38a-102. Definitions.**

8768 (1) "Committee" means the Controlled Substances Advisory Committee created in this chapter.

8770 (2) "Controlled substance schedule" or "schedule" means a schedule as defined under Section [58-37-4] 58-37-108.

8818 Section 146. Section **58-38a-203** is amended to read:

8819 **58-38a-203. Duties of the committee.**

8774 (1) The committee serves as a consultative and advisory body to the Legislature regarding:

8775 (a) the movement of a controlled substance from one schedule or list to another;

8776 (b) the removal of a controlled substance from any schedule or list; and

8777 (c) the designation of a substance as a controlled substance and the placement of the substance in a designated schedule or list.

8779 (2) On or before September 30 of each year, the committee shall submit to the Health and Human Services Interim Committee a written report:

8781 (a) describing any substances recommended by the committee for scheduling, rescheduling, listing, or deletion from the schedules or list by the Legislature; and

8783 (b) stating the reasons for the recommendation.

8784 (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a substance, the committee shall consider:

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8786 (a) the actual or probable abuse of the substance, including:

8787 (i) the history and current pattern of abuse both in Utah and in other states;

8788 (ii) the scope, duration, and significance of abuse;

8789 (iii) the degree of actual or probable detriment to public health which may result from abuse of the substance; and

8791 (iv) the probable physical and social impact of widespread abuse of the substance;

8792 (b) the biomedical hazard of the substance, including:

8793 (i) its pharmacology, including the effects and modifiers of the effects of the substance;

8795 (ii) its toxicology, acute and chronic toxicity, interaction with other substances, whether controlled or not, and the degree to which it may cause psychological or physiological dependence; and

8798 (iii) the risk to public health and the particular susceptibility of segments of the population;

8800 (c) whether the substance is an immediate precursor, as defined in Section [58-37-2] 58-37-101, of a substance that is currently a controlled substance;

8802 (d) the current state of scientific knowledge regarding the substance, including whether there is any acceptable means to safely use the substance under medical supervision;

8804 (e) the relationship between the use of the substance and criminal activity, including whether:

8806 (i) persons engaged in illicit trafficking of the substance are also engaged in other criminal activity;

8808 (ii) the nature and relative profitability of manufacturing or delivering the substance encourages illicit trafficking in the substance;

8810 (iii) the commission of other crimes is one of the recognized effects of abuse of the substance; and

8812 (iv) addiction to the substance relates to the commission of crimes to facilitate the continued use of the substance;

8814 (f) whether the substance has been scheduled by other states; and

8815 (g) whether the substance has any accepted medical use in treatment in the United States.

8816 (4) The committee's duties under this chapter do not include tobacco products as defined in Section 59-14-102 or alcoholic beverages as defined in Section 32B-1-102.

8864 Section 147. Section **58-38a-204** is amended to read:

8865 **58-38a-204. Guidelines for scheduling or listing drugs.**

8820 (1)

8821 (a) The committee shall recommend placement of a substance in Schedule I if it finds:

(i) that the substance has high potential for abuse; and

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8822 (ii) that an accepted standard has not been established for safe use in treatment for medical purposes.

8824 (b) The committee may recommend placement of a substance in Schedule I under Section [58-37-4] 58-37-108 if it finds that the substance is classified as a controlled substance in Schedule I under federal law.

8827 (2)

8829 (a) The committee shall recommend placement of a substance in Schedule II if it finds that:

8830 (i) the substance has high potential for abuse;

8832 (ii) the substance has a currently accepted medical use in treatment in the United States, or a currently accepted medical use subject to severe restrictions; and

8834 (iii) the abuse of the substance may lead to severe psychological or physiological dependence.

8837 (b) The committee may recommend placement of a substance in Schedule II if it finds that the substance is classified as a controlled substance in Schedule II under federal law.

8839 (3)

8841 (a) The committee shall recommend placement of a substance in Schedule III if it finds that:

8843 (i) the substance has a potential for abuse that is less than the potential for substances listed in Schedules I and II;

8845 (ii) the substance has a currently accepted medical use in treatment in the United States; and

8847 (iii) abuse of the substance may lead to moderate or low physiological dependence or high psychological dependence.

8848 (b) The committee may recommend placement of a substance in Schedule III if it finds that the substance is classified as a controlled substance in Schedule III under federal law.

8850 (4)

8851 (a) The committee shall recommend placement of a substance in Schedule IV if it finds that:

8853 (i) the substance has a low potential for abuse relative to substances in Schedule III;

8855 (ii) the substance has currently accepted medical use in treatment in the United States; and

8857 (iii) abuse of the substance may lead to limited physiological dependence or psychological dependence relative to the substances in Schedule III.

8858 (b) The committee may recommend placement of a substance in Schedule IV if it finds that the substance is classified as a controlled substance in Schedule IV under federal law.

8858 (5)

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- (a) The committee shall recommend placement of a substance in Schedule V if it finds that:
 - (i) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;
 - (ii) the substance has currently accepted medical use in treatment in the United States; and
 - (iii) the substance has limited physiological dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.
- (b) The committee may recommend placement of a substance in Schedule V under this chapter if it finds that the substance is classified as a controlled substance in Schedule V under federal law.
- (6) The committee may recommend placement of a substance on a controlled substance list if it finds that the substance has a potential for abuse and that an accepted standard has not been established for safe use in treatment for medical purposes.

Section 148. Section **58-67-503** is amended to read:

58-67-503. Penalties and administrative actions for unlawful and unprofessional conduct.

- (1) Any person that violates the unlawful conduct provisions of Section 58-67-501 or Section 58-1-501 is guilty of a third degree felony.
- (2)
 - (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:
 - (i) assessing administrative penalties; or
 - (ii) taking other appropriate administrative action.
 - (b) The division shall deposit a monetary administrative penalty imposed under this section into the Physician Education and Enforcement Fund created in Section 58-67a-1.
- (3) If a licensee is convicted of unlawful conduct, described in Section 58-67-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.
- (4)
 - (a) If the division concludes that an individual has violated provisions of Section 58-67-501, Section 58-67-502, Chapter 1, Division of Professional Licensing Act, [Chapter 37, Utah Controlled Substances Act] {Title 58} Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a provision described in a statute previously in effect in this state that is the same or substantially similar to a provision described in Section 58-67-501, Section 58-67-502, Chapter 1, Division of Professional Licensing Act, Chapter 37,

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Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

8893 (i) issue a citation to the individual;

8894 (ii) attempt to negotiate a stipulated settlement; or

8895 (iii)

8898 (A) notify the individual that the division will commence an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

8899 (B) invite the individual to appear.

8903 (b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

8906 (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

8908 (ii) order to cease and desist from the behavior that constitutes a violation of the provisions described in Subsection (4)(a).

8910 (c) The division may not suspend or revoke an individual's license through a citation.

8912 (d) Each citation issued under this section shall:

8914 (i) be in writing;

8916 (ii) clearly describe or explain:

8918 (A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

8920 (B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

8922 (C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

8924 (iii) be served in accordance with the Utah Rules of Civil Procedure.

8926 (e)

8928 (i) If the individual to whom the division issues the citation fails to request a hearing to contest the citation within 20 calendar days from the day on which the division serves the citation , the citation:

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8957 (B) division rules related to this title;

8958 (C) the requirements of [Chapter 37, Utah Controlled Substances Act] Chapter 37, Controlled Substances, and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances; and

8961 (D) any division rules related to [Chapter 37, Utah Controlled Substances Act] Chapter 37, Controlled Substances, and Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances; and

8964 (ii) that the division makes available for:

8965 (A) physicians and surgeons;

8966 (B) osteopathic physicians and surgeons;

8967 (C) naturopathic physicians;

8968 (D) division staff; and

8969 (E) members of the board; and

8970 (b) enforcement of Chapter 67, Utah Medical Practice Act, Chapter 68, Utah Osteopathic Medical Practice Act, and Chapter 71, Naturopathic Physician Practice Act, by:

8973 (i) investigating unprofessional or unlawful conduct;

8974 (ii) obtaining legal representation for the division to bring an action against a person engaging in unprofessional or unlawful conduct; and

8976 (iii) monitoring compliance of renewal requirements.

8977 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the division shall transfer any amount that exceeds \$100,000 to the General Fund.

8979 (6) The division shall report on the fund annually to the appropriate appropriations subcommittee of the Legislature.

9031 Section 150. Section **58-68-503** is amended to read:

9032 **58-68-503. Penalties and administrative actions for unlawful and unprofessional conduct.**

8984 (1) Any person that violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.

8986 (2)

8988 (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

8989 (i) assessing administrative penalties; or

8990 (ii) taking any other appropriate administrative action.

8990 (b) The division shall deposit a monetary administrative penalty imposed under this section into the Physician Education and Enforcement Fund created in Section 58-67a-1.

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8993 (3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.

8996 (4) (a) If the division concludes that an individual has violated the provisions of Section 58-68-501, Section 58-68-502, Chapter 1, Division of Professional Licensing Act, [Chapter 37, Utah Controlled Substances Act] {Title 58} Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or a provision described in a statute previously in effect in this state that is the same or substantially similar to a provision described in Section 58-68-501, Section 58-68-502, Chapter 1, Division of Professional Licensing Act, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

9002 (i) issue a citation to the individual;

9003 (ii) attempt to negotiate a stipulated settlement; or

9004 (iii)

9007 (A) notify the individual that the division will commence an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

9008 (B) invite the individual to appear.

9011 (b) The division may take the following action against an individual who violates a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

9014 (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

9016 (ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).

9018 (c) Except for an administrative fine and a cease and desist order, the division may not assess the licensure sanctions cited in Section 58-1-401 through a citation.

9019 (d) Each citation issued under this section shall:

9020 (i) be in writing;

9020 (ii) clearly describe or explain:

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9021 (A) the nature of the violation, including a reference to the provision of the chapter, rule, or order
9022 alleged to have been violated;

9023 (B) that the recipient must notify the division in writing within 20 calendar days from the day on which
9024 the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title
9025 63G, Chapter 4, Administrative Procedures Act; and

9027 (C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation
9028 within the time specified in the citation; and

9029 (iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.

9031 (e)

9032 (i) If the individual to whom the division issues the citation fails to request a hearing to contest the
9033 citation within 20 calendar days from the day on which the citation is served, the citation becomes
9034 the final order of the division and is not subject to further agency review.

9035 (ii) The division may extend the period to contest the citation for cause.

9036 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an
9037 individual who fails to comply with a citation after the citation becomes final.

9038 (g) The failure of an applicant for licensure to comply with a citation after the citation becomes final is
9039 grounds for denial of a license.

9040 (h) The division may not issue a citation under this section after the expiration of one year following the
9041 date on which the division receives the report of the violation that is the subject of the citation.

9042 (5)

9043 (a) The director may collect a penalty imposed under this section that is not paid by:

9044 (i) referring the matter to a collection agency; or

9045 (ii) bringing an action in the district court of the county where the person against whom the penalty
9046 is imposed resides or in the county where the office of the director is located.

9047 (b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the
9048 director in an action to collect a penalty.

9049 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by
9050 the division to collect a penalty.

9107 Section 151. Section **58-71-102** is amended to read:

9108 **58-71-102. Definitions.**

9109 In addition to the definitions in Section 58-1-102, as used in this chapter:

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9056 (1) "Acupuncture" means the practice of acupuncture as defined in Section 58-72-102.

9057 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

9061 (3) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

9063 (4) "Diagnose" means:

9064 (a) to examine in any manner another individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from an individual's body, or produced by an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

9068 (b) to attempt to conduct an examination or determination described under Subsection (4)(a);

9070 (c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (4)(a); or

9072 (d) to make an examination or determination as described in Subsection (4)(a) upon or from information supplied directly or indirectly by another individual, whether or not in the presence of the individual the examination or determination concerns.

9075 (5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

9077 (a) is applied topically or by injection associated with the performance of minor office procedures;

9079 (b) has the ability to produce loss of sensation to a targeted area of an individual's body;

9080 (c) does not cause loss of consciousness or produce general sedation; and

9081 (d) is part of the competent practice of naturopathic medicine during minor office procedures.

9083 (6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

9087 (7)

9088 (a) "Minor office procedures" means:

9088 (i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

9090 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

9092

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(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthesia or a prescription drug described in Subsection (8)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection (7)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving nerves, veins, or arteries.

(8) "Natural medicine" means any:

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter medication;

(c) other nonprescription substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

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9125 (J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

9128 (9)

(a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician.

9130 (b) "Naturopathic childbirth" includes the use of:

9131 (i) natural medicines; and

9132 (ii) uncomplicated episiotomy.

9133 (c) "Naturopathic childbirth" does not include the use of:

9134 (i) forceps delivery;

9135 (ii) general or spinal anesthesia;

9136 (iii) caesarean section delivery; or

9137 (iv) induced labor or abortion.

9138 (10)

(a) "Naturopathic mobilization therapy" means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body.

9142 (b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier.

9144 (c) "Naturopathic mobilization therapy" does not include manipulation as used in Chapter 73, Chiropractic Physician Practice Act.

9146 (11)

(a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

9150 (b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

9152 (12) "Naturopathic physician" means an individual licensed under this chapter to engage in the practice of naturopathic medicine.

9154 (13) "Practice of naturopathic medicine" means:

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9155 (a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

9159 (i) using naturopathic childbirth, but only if:

9160 (A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration with the board; and

9163 (B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

9169 (I) refer patients to the consulting physician; and

9170 (II) consult with the consulting physician;

9171 (ii) using naturopathic mobilization therapy;

9172 (iii) using naturopathic physical medicine;

9173 (iv) using minor office procedures;

9174 (v) prescribing or administering natural medicine;

9175 (vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;

9179 (vii) prescribing barrier devices for contraception;

9180 (viii) using dietary therapy;

9181 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;

9183 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;

9185 (xi) taking of a history from and conducting of a physical examination upon a human patient; and

9187 (xii) administering local anesthesia during the performance of a minor office procedure;

9189 (b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (13)(a), whether or not for compensation; or

9191 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or

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advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

9199 (14) "Prescribe" means to issue a prescription:

9200 (a) orally or in writing; or

9201 (b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

9203 (15) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person licensed under this chapter or exempt from licensure under this chapter.

9208 (16) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

9210 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-501.

9212 (18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

9268 Section 152. Section **58-73-601** is amended to read:

9269 **58-73-601. Scope of practice for a chiropractic physician.**

9216 (1) A chiropractic physician licensed under this chapter may engage in the practice of chiropractic as defined in Section 58-73-102 in accordance with the following standards.

9218 (2) A chiropractic physician may:

9219 (a) examine, diagnose, and treat only within the scope of chiropractic as described in this Subsection (2);

9221 (b)

9222 (i) use x-ray for diagnostic purposes only; and

9222 (ii) order, for diagnostic purposes only:

9223 (A) ultrasound;

9224 (B) magnetic resonance imaging; and

9225 (C) computerized tomography;

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9226 (c) administer:

9227 (i) physical agents, including light, heat, cold, water, air, sound, compression, electricity, and electromagnetic radiation except gamma radiation; and

9229 (ii) physical activities and devices, including:

9230 (A) exercise with and without devices;

9231 (B) joint mobilization;

9232 (C) mechanical stimulation;

9233 (D) postural drainage;

9234 (E) traction;

9235 (F) positioning;

9236 (G) wound debridement, cleansing, and dressing changes;

9237 (H) splinting;

9238 (I) training in locomotion and other functional activities with and without assistance devices; and

9240 (J) correction of posture, body mechanics, and gait;

9241 (d) administer the following topically applied medicinal agents, including steroids, anesthetics, coolants, and analgesics for wound care and for musculoskeletal treatment, including their use by iontophoresis or phonophoresis;

9244 (e) treat pain incident to major or minor surgery, cancer, obstetrics, or x-ray therapy;

9245 (f) utilize immobilizing appliances, casts, and supports for support purposes, but may not set displaced bone fractures;

9247 (g) inform the patient of possible side effects of medication and recommend referral to the prescribing practitioner;

9249 (h) provide instruction in the use of physical measures, activities, and devices for preventive and therapeutic purposes;

9251 (i) provide consulting, educational, and other advisory services for the purposes of reducing the incidence and severity of physical disability, movement dysfunctions, bodily malfunction, and pain;

9254 (j) treat a human being to assess, prevent, correct, alleviate, and limit physical disability, movement dysfunction, bodily malfunction, and pain resulting from disorders, congenital and aging conditions, injury, and disease; and

9257 (k) administer, interpret, and evaluate tests.

9258 (3) A chiropractic physician may not:

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9259 (a) perform incisive surgery;

9260 (b) administer drugs or medicines for which an authorized prescription is required by law except as
provided in Subsection (2)(d);

9262 (c) treat cancer;

9263 (d) practice obstetrics;

9264 (e) prescribe or administer x-ray therapy; or

9265 (f) set displaced fractures.

9266 (4) A chiropractic physician shall assume responsibility for his examinations, diagnoses, and treatment.

9268 (5) Nothing in this section authorizes a chiropractic physician to prescribe, possess for dispensing,
dispense, purchase without a prescription written by a licensed and authorized practitioner, or
administer, except under Subsection (2)(d), a drug requiring a prescription to dispense, under [Title
58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 17b, Pharmacy Practitioner
Act] Chapter 17b, Pharmacy Practice Act, or Chapter 37, Controlled Substances.

9274 (6) Only primary health care providers licensed under this title as osteopathic physicians, physicians
and surgeons, naturopaths, and chiropractic physicians, may diagnose, adjust, manipulate, or
therapeutically position the articulation of the spinal column to the extent permitted by their scopes
of practice.

9332 Section 153. Section **58-88-202** is amended to read:

9333 **58-88-202. Dispensing practice -- Drugs that may be dispensed -- Limitations and exceptions.**

9281 (1) Notwithstanding Section 58-17b-302, a dispensing practitioner may dispense a drug at a licensed
dispensing practice if the drug is:

9283 (a) packaged in a fixed quantity per package by:

9284 (i) the drug manufacturer;

9285 (ii) a pharmaceutical wholesaler or distributor; or

9286 (iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act;

9287 (b) dispensed:

9288 (i) at a licensed dispensing practice at which the dispensing practitioner regularly practices; and

9290 (ii) under a prescription issued by the dispensing practitioner to the dispensing practitioner's patient;

9292 (c) except as provided in Subsection (6), for a condition that is not expected to last longer than 30 days;
and

9294

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(d) for a condition for which the patient has been evaluated by the dispensing practitioner on the same day on which the dispensing practitioner dispenses the drug.

(2) A dispensing practitioner may not dispense:

- (a) a controlled substance as defined in Section [58-37-2] 58-37-101;
- (b) a drug or class of drugs that is designated by the division under Subsection 58-88-205(2); or
- (c) a supply of a drug under this part that exceeds a 30-day supply.

(3) A dispensing practitioner may not make a claim against workers' compensation or automobile insurance for a drug dispensed under this part for outpatient use unless the dispensing practitioner is contracted with a pharmacy network established by the claim payor.

(4) When a dispensing practitioner dispenses a drug to the patient under this part, a dispensing practitioner shall:

- (a) disclose to the patient verbally and in writing that the patient is not required to fill the prescription through the licensed dispensing practice and that the patient has a right to fill the prescription through a pharmacy; and
- (b) if the patient will be responsible to pay cash for the drug, disclose:
 - (i) that the patient will be responsible to pay cash for the drug; and
 - (ii) the amount that the patient will be charged by the licensed dispensing practice for the drug.

(5) This part does not:

- (a) require a dispensing practitioner to dispense a drug under this part;
- (b) limit a health care prescriber from dispensing under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or
- (c) apply to a physician who dispenses:

- (i) a drug sample, as defined in Section 58-17b-102, to a patient in accordance with Section 58-1-501.3 or Section 58-17b-610; or
- (ii) a drug in an emergency situation as defined by the division in rule under Chapter 17b, Pharmacy Practice Act.

(6) A dispensing practitioner that is a dentist may dispense prescription fluoride medication regardless of whether the condition the fluoride is treating will last longer than 30 days.

Section 154. Section **63A-17-102** is amended to read:

63A-17-102. Definitions.

As used in this chapter:

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9328 (1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

9330 (2) "Career service" means positions under schedule B as defined in Section 63A-17-301.

9331 (3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

9333 (4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

9335 (5) "Classified service" means those positions subject to the classification and compensation provisions of Section 63A-17-307.

9337 (6) "Controlled substance" means controlled substance as defined in Section [58-37-2] 58-37-101.

9339 (7)

9341 (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

9342 (b) "Demotion" does not mean:

9344 (i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

9346 (ii) a reclassification of an employee's position under the provisions of Subsection 63A-17-307(3) and rules made by the department.

9347 (8) "Director" means the director of the division.

9349 (9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

9351 (10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.

9353 (11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.

9355 (12) "Examining instruments" means written or other types of proficiency tests.

9357 (13) "Human resource function" means those duties and responsibilities specified:

9358 (a) under Section 63A-17-106;

9359 (b) under rules of the division; and

9360 (c) under other state or federal statute.

9362 (14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.

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9360 (15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

9362 (16) "Probationary period" means that period of time determined by the division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.

9365 (17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.

9367 (18) "Structure adjustment" means a division modification of salary ranges.

9368 (19) "Temporary employee" means a career service exempt employee described in Subsection 63A-17-301(1)(r).

9370 (20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

9427 Section 155. Section **63G-7-202** is amended to read:

9428 **63G-7-202. Act provisions not construed as admission or denial of liability -- Effect of waiver of immunity -- Exclusive remedy -- Joinder of employee -- Limitations on personal liability -- Public duty does not create specific duty.**

9377 (1)

9380 (a) Nothing contained in this chapter, unless specifically provided, may be construed as an admission or denial of liability or responsibility by or for a governmental entity or its employees.

9382 (b) If immunity from suit is waived by this chapter, consent to be sued is granted, and liability of the entity shall be determined as if the entity were a private person.

9385 (c) No cause of action or basis of liability is created by any waiver of immunity in this chapter, nor may any provision of this chapter be construed as imposing strict liability or absolute liability.

9387 (2)

9391 (3)

9380 (a) Except as provided in Subsection (3)(c), an action under this chapter against a governmental entity for an injury caused by an act or omission that occurs during the performance of an employee's duties, within the scope of employment, or under color of authority is a plaintiff's exclusive remedy.

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(b) Judgment under this chapter against a governmental entity is a complete bar to any action by the claimant, based upon the same subject matter, against the employee whose act or omission gave rise to the claim.

9394 (c) A plaintiff may not bring or pursue any civil action or proceeding based upon the same subject matter against the employee or the estate of the employee whose act or omission gave rise to the claim, unless:

9397 (i) the employee acted or failed to act through fraud or willful misconduct;

9398 (ii) the injury or damage resulted from the employee driving a vehicle, or being in actual physical control of a vehicle:

9400 (A) with a blood alcohol content equal to or greater by weight than the established legal limit;

9402 (B) while under the influence of alcohol or any drug to a degree that rendered the person incapable of safely driving the vehicle; or

9404 (C) while under the combined influence of alcohol and any drug to a degree that rendered the person incapable of safely driving the vehicle;

9406 (iii) injury or damage resulted from the employee being physically or mentally impaired so as to be unable to reasonably perform the employee's job function because of:

9409 (A) the use of alcohol;

9410 (B) the nonprescribed use of a controlled substance as defined in Section [58-37-4] 58-37-108; or

9412 (C) the combined influence of alcohol and a nonprescribed controlled substance as defined by Section [58-37-4] 58-37-108;

9414 (iv) in a judicial or administrative proceeding, the employee intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry under this section; or

9418 (v) the employee intentionally or knowingly:

9419 (A) fabricated evidence; or

9420 (B) except as provided in Subsection (3)(d), with a conscious disregard for the rights of others, failed to disclose evidence that:

9422 (I) was known to the employee; and

9423 (II)

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(Aa) was known by the employee to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding, if the employee knew of the pending judicial or administrative proceeding; or

9427 (Bb) was known by the employee to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.

9431 (d) The exception, described in Subsection (3)(c)(v)(B), allowing a plaintiff to bring or pursue a civil action or proceeding against an employee, does not apply if the employee failed to disclose evidence described in Subsection (3)(c)(v)(B), because the employee is prohibited by law from disclosing the evidence.

9435 (4) Except as permitted in Subsection (3)(c), no employee may be joined or held personally liable for acts or omissions occurring:

9437 (a) during the performance of the employee's duties;

9438 (b) within the scope of employment; or

9439 (c) under color of authority.

9440 (5) A general duty that a governmental entity owes to the public does not create a specific duty to an individual member of the public, unless there is a special relationship between the governmental entity and the individual member of the public.

9497 Section 156. Section **63I-1-258** is amended to read:

9498 **63I-1-258. Repeal dates: Title 58.**

9445 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

9447 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2035.

9448 (3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

9449 (4) Section ~~[58-37-3.5]~~ 58-37-309, Drugs for behavioral health treatment, is repealed July 1, 2027.

9451 (5) Subsection ~~[58-37-6(7)(f)(iii)]~~ 58-37-304(6)(d), regarding a seven-day opiate supply restriction, is repealed July 1, 2032.

9453 (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

9454 (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

9456 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

9458 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2034.

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9459 (10) Subsection 58-47b-102(8), defining massage assistant, is repealed July 1, 2029.

9460 (11) Subsection 58-47b-102(9), defining massage assistant-in-training, is repealed July 1, 2029.

9462 (12) Subsection 58-47b-302(1), regarding applicant for a massage assistant-in-training, is repealed July 1, 2029.

9464 (13) Subsection 58-47b-302(2), regarding applicant for a massage assistant, is repealed July 1, 2029.

9466 (14) Subsection 58-47b-303(3)(b), regarding expiration of a massage assistant-in-training license, is repealed July 1, 2029.

9468 (15) Subsection 58-55-201(2), regarding the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

9470 (16) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

9525 Section 157. Section **64-13-45** is amended to read:

9526 **64-13-45. Department reporting requirements.**

9473 (1) As used in this section:

9474 (a) "Biological sex at birth" means the same as that term is defined in Section 26B-8-101.

9475 (b)

9476 (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of the department.

9477 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:

9478 (A) being transported for medical care; or

9479 (B) receiving medical care outside of a correctional facility, other than a county jail.

9481 (c) "Inmate" means an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail.

9483 (d) "Opiate" means the same as that term is defined in Section 58-37-2 58-37-101.

9484 (e) "Transgender inmate" means the same as that term is defined in Section 64-13-7.

9485 (2) The department shall submit a report to the Commission on Criminal and Juvenile Justice created in Section 63M-7-201 before June 15 of each year that includes:

9487 (a) the number of in-custody deaths that occurred during the preceding calendar year, including:

9489 (i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in this Subsection (2)(a); and

9491 (ii) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;

9493 (b) the department policies, procedures, and protocols:

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9494 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

9496 (ii) that relate to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

9499 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use disorder or mental health disorder;

9501 (c) the number of inmates who gave birth and were restrained in accordance with Section 64-13-46, including:

9503 (i) the types of restraints used; and

9504 (ii) whether the use of restraints was to prevent escape or to ensure the safety of the inmate, medical or corrections staff, or the public;

9506 (d) the number of transgender inmates that are assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth in accordance with Section 64-13-7, including:

9509 (i) the results of the individualized security analysis conducted for each transgender inmate in accordance with Subsection 64-13-7(5)(a); and

9511 (ii) a detailed explanation regarding how the security conditions described in Subsection 64-13-7(5)(b) are met for each transgender inmate;

9513 (e) the number of transgender inmates that were:

9514 (i) assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth; and

9516 (ii) removed and assigned to a living area with inmates whose biological sex at birth corresponds with the transgender inmate's biological sex at birth in accordance with Subsection 64-13-7(6); and

9519 (f) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.

9521 (3) The Commission on Criminal and Juvenile Justice shall:

9522 (a) compile the information from the reports described in Subsection (2);

9523 (b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law[-]; and

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(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Committee before November 1 of each year.

(4) The Commission on Criminal and Juvenile Justice may not provide access to or use the department's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

Section 158. Section **64-14-204** is amended to read:

64-14-204. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee -- Coordination with local mental health authority.

(1)

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

(i)

(A) is placed on probation by a court;

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

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

(ii) has been convicted of:

(A) a felony;

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

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

(b) If a sentenced offender participates in substance use treatment or a residential vocational or life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the division shall monitor the offender's compliance with and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection [58-37-8 (2)(b)(ii)] 76-18-207(3)(b)(i) or (3)(c)(i), or sentenced under an offense described in a statute previously in effect in this state that is

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the same or substantially similar to a violation of an offense described in Subsection 76-18-207(3)(b)(i) or (3)(c)(i); and

9556 (ii) the monitoring described in Subsection (1)(b).

9557 (2) The division shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

9561 (a) sanctions to be used in response to a violation of the terms of probation or parole; and

9562 (b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.

9566 (3) The division shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1 to facilitate the department's prompt and appropriate response to an offender's:

9569 (a) compliance with the terms of probation or parole; or

9570 (b) positive conduct that exceeds those terms.

9571 (4)

9569 (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Use and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

9577 (b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

9579 (5) Employees of the division who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

9582 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

9584 (b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision by the division;

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9586 (c) supervising any offender during transportation; or

9587 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.

9588 (6)

9589 (a)

9590 (i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole.

9591 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the division upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

9592 (b)

9593 (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

9594 (ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the division shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

9595 (c) The division shall deposit money received from the monthly supervision fee established in this Subsection (6) into the General Fund as a parole and probation dedicated credit to be used to cover costs incurred in the collection of the fee and in the development of offender supervision programs.

9596 (7)

9597 (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2) (a) on or after October 1, 2015, but before January 1, 2019, the division shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.

9598 (b)

9599 (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the division shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.

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- (ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.
- 9620 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:
 - 9623 (A) the offender presents a substantial risk to public safety;
 - 9624 (B) termination would prevent the offender from completing risk reduction programming or treatment; or
 - 9626 (C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.
- 9629 (iv) This Subsection (7)(b) does not prohibit the division, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.
- 9633 (c) The division shall:
 - 9634 (i) maintain a record of credits earned by an offender under this Subsection (7); and
 - 9635 (ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).
- 9638 (d) This Subsection (7) does not prohibit the division from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).
- 9640 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.
- 9646 (f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:
 - 9648 (i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

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9652 (ii) the average number of credits earned by those offenders who earned credits;

9653 (iii) the number of offenders who earned credits by county of residence while on probation or parole;

9655 (iv) the cost savings associated with sentencing reform programs and practices; and

9656 (v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

9658 (8)

9660 (a) The department shall coordinate with a local mental health authority to complete the requirements of this Subsection (8) for an offender who:

9661 (i) is a habitual offender as that term is defined in Section 77-18-102;

9662 (ii) has a mental illness as that term is defined in Section 26B-5-301; and

9663 (iii) based on a risk and needs assessment:

9664 (A) is at a high risk of reoffending; and

9665 (B) has risk factors that may be addressed by available community-based services.

9666 (b) For an offender described in Subsection (8)(a), at any time clinically appropriate or at least three months before termination of an offender's parole or expiration of an offender's sentence, the department shall coordinate with the Department of Health and Human Services and the relevant local mental health authority to provide applicable clinical assessments and transitional treatment planning and services for the offender so that the offender may receive appropriate treatment and support services after the termination of parole or expiration of sentence.

9667 (c) The local mental health authority may determine whether the offender:

9668 (i) meets the criteria for civil commitment;

9669 (ii) meets the criteria for assisted outpatient treatment; or

9670 (iii) would benefit from assignment to an assertive community treatment team or available community-based services.

9671 (d) Based on the local mental health authority's determination under Subsection (8)(c), the local mental health authority shall, as appropriate:

9672 (i) initiate an involuntary commitment court proceeding;

9673 (ii) file a written application for assisted outpatient treatment; or

9674 (iii) seek to have the offender assigned to an assertive community treatment team or available community-based services.

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(e) On or before November 1, 2025, the department shall provide a report to the Law Enforcement and Criminal Justice Interim Committee regarding any proposed changes to the requirements in this Subsection (8), including whether the requirements of this Subsection (8) should also apply to any other category of offenders.

9745 Section 159. Section **67-5-36** is amended to read:

67-5-36. Drug Disposal Program.

9690 (1) As used in the section:

9691 (a) "Controlled substance" means the same as that term is defined in Section ~~58-37-2~~ 58-37-101.

9693 (b) "Department" means the Department of Environmental Quality.

9694 (c) "Environmentally friendly" means a controlled substance that is rendered:

9695 (i) non-retrievable, as determined by the attorney general in consultation with the department;

9697 (ii) non-hazardous, as determined by the department; and

9698 (iii) permissible to dispose in a landfill in a manner that does not violate state or federal law relating to surface water or groundwater.

9700 (d) "Home controlled substance disposal receptacle" means a receptacle provided by the program that can be used by an individual to render a small amount of controlled substances at an individual's residence non-retrievable and environmentally friendly.

9703 (e) "Non-retrievable" means the same as that term is defined in 21 C.F.R. 1300.05.

9704 (f) "Program" means the Drug Disposal Program described in this section.

9705 (g) "Repository" means a controlled substance disposal repository described in Subsection (3).

9707 (2) The attorney general may, in coordination with the department and within funds available for this purpose, administer a program, known as the Drug Disposal Program, to provide for the safe, secure, and environmentally friendly disposal of controlled substances in the state.

9711 (3) The attorney general and the department, in developing and implementing the program:

9712 (a) may work with law enforcement agencies, pharmacies, hospitals, and other entities to ensure that one or more repositories are present in each county in the state;

9714 (b) shall ensure that each repository:

9715 (i) renders a controlled substance placed in the repository non-retrievable and environmentally friendly, onsite; and

9717 (ii) is secure from tampering or unauthorized removal;

9718 (c) may require verification that:

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9719 (i) a repository complies with Subsection (3)(b); and

9720 (ii) a home controlled substance disposal receptacle renders a controlled substance non-retrievable and
environmentally friendly;

9722 (d) shall ensure that the program operates in accordance with Drug Enforcement
Administration rules; and

9724 (e) may publish, on the websites of the attorney general's office and the department:

9725 (i) a list of the location of each repository in the state; and

9726 (ii) if home controlled substance disposal receptacles are used as part of the program, information on
how to obtain a home controlled substance disposal receptacle.

9728 (4) The attorney general may, instead of, or in addition to, establishing a repository in a county,
establish a process for residents of the county to obtain a home controlled substance disposal
receptacle.

9731 (5) A state or local government entity, other than the attorney general's office, the department, or a
designee of the department, may not:

9733 (a) regulate the disposal of a controlled substance rendered non-retrievable in a repository or home
controlled substance disposal receptacle differently, or more strictly, than disposal of non-hazardous
household waste;

9736 (b) regulate or restrict the location of a repository or the distribution of a home controlled substance
disposal receptacle; or

9738 (c) otherwise take action to regulate or interfere with administration of the program.

9739 (6) This section does not prohibit the disposal of a controlled substance:

9740 (a) in a receptacle that does not qualify as a repository if:

9741 (i) the receptacle is located on the premises of an entity authorized by Drug Enforcement
Administration rules to accept a controlled substance for subsequent disposal; and

9744 (ii) the entity described in Subsection (6)(a)(i) ensures that the controlled substance is managed in a
manner permitted by Drug Enforcement Administration rule; or

9746 (b) disposed at a facility that has received the approval required under Section 19-6-108.

9747 (7) Unless otherwise agreed by the attorney general, an entity described in Subsection (3)(a) that
permits the placement of a repository on property owned or controlled by the entity will dispose
of a controlled substance placed in the repository after the controlled substance is rendered
environmentally friendly.

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9808 Section 160. Section **76-3-203.11** is amended to read:

9809 **76-3-203.11. Reporting an overdose -- Mitigating factor.**

9753 (1) As used in this section, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

9756 (2) It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances, that the person or bystander:

9759 [(1)] (a) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

9762 [(2)] (b) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this section;

9766 [(3)] (c) provides in the report under Subsection [(2)] (2)(b) a functional description of the location of the actual overdose event that facilitates responding to the person experiencing the overdose event;

9769 [(4)] (d) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

9773 [(5)] (e) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

9777 [(6)] (f) committed the offense in the same course of events from which the reported overdose arose.

9836 Section 161. Section **76-5-102.1** is amended to read:

9837 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

9782 (1)

9783 (a) As used in this section:

 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

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(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

9822 (a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

9825 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

9826 (c) the actor possessed, in the actor's body, a controlled substance listed in Section [58-37-4.2] 58-37-109 if:

9828 (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section [58-37-6] 58-37-105 or 58-37-113; and

9831 (ii) the substance was administered to the actor by the medical researcher.

9832 (5)

9833 (a) A judge imposing a sentence under this section may consider:

9835 (i) the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

9836 (ii) the defendant's history;

9837 (iii) the facts of the case;

9838 (iv) aggravating and mitigating factors; or

9839 (v) any other relevant fact.

9841 (b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

9844 (c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

9846 (d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

9848 (e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

9851 (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

9851 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

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9853 (6)

(a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.

9857 (b) If a court designates a person as an interdicted person as provided in Subsection (6)(a), the court shall:

9859 (i) require the person to surrender the person's identification card or driver license;

9860 (ii) notify the Driver License Division that the person is an interdicted person; and

9861 (iii) provide the person's identification card or driver license to the Driver License Division.

9863 (7) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:

9865 (a) a screening as defined in Section 41-6a-501;

9866 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a) indicates that an assessment is appropriate; and

9868 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

9927 Section 162. Section **76-5-112.5** is amended to read:

9928 **76-5-112.5. Endangerment of a child or vulnerable adult.**

9872 (1)

(a) As used in this section:

9873 (i)

(A) "Chemical substance" means:

9874 (I) a substance intended to be used as a precursor in the manufacture of a controlled substance;

9876 (II) a substance intended to be used in the manufacture of a controlled substance; or

9878 (III) any fumes or by-product resulting from the manufacture of a controlled substance.

9880 (B) Intent under this Subsection (1)(a)(i) may be demonstrated by:

9881 (I) the use, quantity, or manner of storage of the substance; or

9882 (II) the proximity of the substance to other precursors or to manufacturing equipment.

9884 (ii) "Child" means an individual who is under 18 years old.

9885 (iii) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

9887 (iv) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3] 76-18-301.

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9889 (v) "Exposed to" means that the child or vulnerable adult:

9890 (A) is able to access an unlawfully possessed:

9891 (I) controlled substance; or

9892 (II) chemical substance;

9893 (B) has the reasonable capacity to access drug paraphernalia; or

9894 (C) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.

9896 (vi) "Prescription" means the same as that term is defined in Section [58-37-2] 58-37-101.

9898 (vii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

9899 (b) Terms defined in Section 76-1-101.5 apply to this section.

9900 (2) An actor commits endangerment of a child or vulnerable adult if the actor knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia.

9904 (3)

9905 (a) A violation of Subsection (2) is a third degree felony.

9907 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:

9908 (i) the actor engages in the conduct described in Subsection (2); and

9908 (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury.

9910 (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if:

9912 (i) the actor engages in the conduct described in Subsection (2); and

9913 (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult dies.

9915 (4)

9917 (a) Notwithstanding Subsection (3), a child may not be subjected to delinquency proceedings for a violation of Subsection (2) unless:

9918 (i) the child is 15 years old or older; and

9918 (ii) the other child who is exposed to or inhales, ingests, or has contact with the controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.

9921 (b) It is an affirmative defense to a violation of this section that the controlled substance:

9922 (i) was obtained by lawful prescription or in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

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9924 (ii) is used or possessed by the individual to whom the controlled substance was lawfully prescribed or
recommended to under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

9927 (5) The penalties described in this section are separate from, and in addition to, the penalties and
enhancements described in Title 58, Occupations and Professions.

9929 (6) If an offense committed under this section amounts to an offense subject to a greater penalty under
another provision of state law, this section does not prohibit prosecution and sentencing for the more
serious offense.

9989 Section 163. Section **76-5-113** is amended to read:

9990 **76-5-113. Surreptitious administration of certain substances -- Definitions -- Penalties --**

Defenses.

9935 (1)

9936 (a) As used in this section:

9938 (i) "Administer" means the introduction of a substance into the body by injection, inhalation,
ingestion, or by any other means.

9939 (ii) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.

9941 (iii) "Controlled substance" means the same as that term is defined in Section ~~58-37-2~~ 58-37-101.

9943 (iv) "Deleterious substance" means a substance which, if administered, would likely cause bodily
injury.

9945 (v) "Health care provider" means the same as that term is defined in Section 78B-3-403.

9947 (vi) "Poisonous" means a substance which, if administered, would likely cause serious bodily injury
or death.

9948 (vii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

9950 (viii) "Serious bodily injury" means the same as that term is defined in Section 19-2-115.

9952 (ix) "Substance" means a controlled substance, poisonous substance, or deleterious substance.

9953 (b) Terms defined in Section 76-1-101.5 apply to this section.

9955 (2) An actor commits surreptitious administration of a certain substance if the actor, surreptitiously or
by means of fraud, deception, or misrepresentation, causes an individual to unknowingly consume
or receive the administration of:

9956 (a) any poisonous, deleterious, or controlled substance; or

9957 (b) any alcoholic beverage.

9958 (3) A violation of Subsection (2) is:

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9959 (a) a second degree felony if the substance is a poisonous substance, regardless of whether the substance is a controlled substance or a prescription drug;

9961 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a), and is a controlled substance or a prescription drug; or

9963 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic beverage.

9965 (4)

9966 (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

9967 (i) provided the appropriate administration of a prescription drug; and

9969 (ii) acted on the reasonable belief that the actor's conduct was in the best interest of the well-being of the individual to whom the prescription drug was administered.

9970 (b)

9971 (i) The defendant shall file and serve on the prosecuting attorney a notice in writing of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the trial.

9972 (ii) The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses the defendant proposes to examine to establish the defense.

9973 (c)

9974 (i) The prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses the prosecutor proposes to examine in order to contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).

9975 (ii) This notice shall be filed or served not more than 10 days after receipt of the defendant's notice under Subsection (4)(b), or at another time as the court may direct.

9976 (d)

9977 (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c) entitles the opposing party to a continuance to allow for preparation.

9978 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.

9979 (5)

9980 (a) This section does not diminish the scope of authorized health care by a health care provider.

9981 (b) Conduct in violation of Subsection (2) may also constitute a separate offense.

10046 Section 164. Section **76-5-203** is amended to read:

10047

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76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

9992 (1)

9993 (a) As used in this section, "predicate offense" means:

9994 (i) a clandestine drug lab violation under Section [58-37d-4 or 58-37d-5] 76-18-506;

9995 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is
9996 younger than 18 years old;

9997 (iii) child torture under Section 76-5-109.4;

9998 (iv) kidnapping under Section 76-5-301;

9999 (v) child kidnapping under Section 76-5-301.1;

10000 (vi) aggravated kidnapping under Section 76-5-302;

10001 (vii) rape under Section 76-5-402;

10002 (viii) rape of a child under Section 76-5-402.1;

10003 (ix) object rape under Section 76-5-402.2;

10004 (x) object rape of a child under Section 76-5-402.3;

10005 (xi) forcible sodomy under Section 76-5-403;

10006 (xii) sodomy upon a child under Section 76-5-403.1;

10007 (xiii) forcible sexual abuse under Section 76-5-404;

10008 (xiv) sexual abuse of a child under Section 76-5-404.1;

10009 (xv) aggravated sexual abuse of a child under Section 76-5-404.3;

10010 (xvi) aggravated sexual assault under Section 76-5-405;

10011 (xvii) arson under Section 76-6-102;

10012 (xviii) aggravated arson under Section 76-6-103;

10013 (xix) burglary under Section 76-6-202;

10014 (xx) aggravated burglary under Section 76-6-203;

10015 (xxi) robbery under Section 76-6-301;

10016 (xxii) aggravated robbery under Section 76-6-302;

10017 (xxiii) escape under Section 76-8-309;

10018 (xxiv) aggravated escape under Section 76-8-309.3; or

10019 (xxv) a violation of Section 76-11-209 or 76-11-210 regarding discharge of a firearm or dangerous
10020 weapon.

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10020 (b) Terms defined in Section 76-1-101.5 apply to this section.

10021 (2) An actor commits murder if:

10022 (a) the actor intentionally or knowingly causes the death of another individual;

10023 (b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

10025 (c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

10028 (d)

10029 (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

10031 (ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

10034 (iii) the actor acted with the intent required as an element of the predicate offense;

10035 (e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

10037 (i) an assault against a peace officer under Section 76-5-102.4;

10038 (ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

10040 (iii) an assault against a military service member in uniform under Section 76-5-102.4; or

10042 (f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

10044 (3)

10045 (a)

10046 (i) A violation of Subsection (2) is a first degree felony.

10047 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

10047 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds

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that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

- 10052 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or
- 10054 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c), enter a judgment of conviction for attempted manslaughter.
- 10057 (4)
 - (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.
 - (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.
 - (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:
- 10069 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or
- 10071 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.
- 10073 (5)
 - (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.
 - (b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.
- 10134 Section 165. Section **76-5-207** is amended to read:
- 10135 **76-5-207. Automobile homicide -- Penalties -- Evidence.**
- 10079 (1)
 - (a) As used in this section:
- 10080 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

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- 10082 (ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).
- 10084 (iii) "Drug" means:
 - 10085 (A) a controlled substance;
 - 10086 (B) a drug as defined in Section [58-37-2] 58-37-101; or
 - 10087 (C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.
- 10089 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.
- 10092 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.
- 10093 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 10094 (2) An actor commits automobile homicide if the actor:
 - 10095 (a)
 - 10097 (i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual; and
 - 10097 (ii)
 - 10097 (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
 - 10100 (B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
 - 10103 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or
 - 10105 (b)
 - 10107 (i) operates a vehicle in a criminally negligent manner causing death to another; and
 - 10107 (ii) has in the actor's body any measurable amount of a controlled substance.
 - 10108 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:
 - 10109 (a) a second degree felony, punishable by a term of imprisonment of not less than five years nor more than 15 years; and
 - 10111 (b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.
 - 10114 (4) An actor is not guilty of a violation of automobile homicide under Subsection (2)(b) if:

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- (a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;
- (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
- (c) the actor possessed, in the actor's body, a controlled substance listed in Section [58-37-4.2] 58-37-109 if:
 - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section [58-37-6] 58-37-105 or 58-37-113; and
 - (ii) the substance was administered to the actor by the medical researcher.

(5)

- (a) A judge imposing a sentence under this section may consider:
 - (i) the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;
 - (ii) the defendant's history;
 - (iii) the facts of the case;
 - (iv) aggravating and mitigating factors; or
 - (v) any other relevant fact.
- (b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.
- (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.
- (d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).
- (e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.
- (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.
- (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

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(6) If, when imposing a sentence under this section, the court finds that it is in the interest of justice to suspend the imposition of prison, the court shall detail the finding on the record, including why a suspended prison sentence is in the interest of justice.

10150 (7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than three years nor more than 15 years if the court details on the record why it is in the interest of justice.

10153 (8)

(a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.

10157 (b) If a court designates a person as an interdicted person as provided in Subsection (8)(a), the court shall:

10159 (i) require the person to surrender the person's identification card or driver license;

10160 (ii) notify the Driver License Division that the person is an interdicted person; and

10161 (iii) provide the person's identification card or driver license to the Driver License Division.

10163 (9) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:

10165 (a) a screening as defined in Section 41-6a-501;

10166 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9)(a) indicates that an assessment is appropriate; and

10168 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

10227 Section 166. Section **76-8-311.3** is amended to read:

10228 **76-8-311.3. Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**

10174 (1)

(a) As used in this section:

10175 (i) "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication, or another device that can be used to communicate electronically.

10178 (ii) "Controlled substance" means a substance defined as a controlled substance under [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances.

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10181 (iii) "Correctional facility" means:

10182 (A) a facility operated by or contracting with the Department of Corrections to house an offender in either a secure or nonsecure setting;

10184 (B) a facility operated by a municipality or a county to house or detain an offender;

10185 (C) a juvenile detention facility; or

10186 (D) a building or grounds appurtenant to a facility or land granted to the state, municipality, or county for use as a correctional facility.

10188 (iv) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

10189 (v) "Electronic cigarette product" means the same as that term is defined in Section 76-9-1101.

10191 (vi) "Firearm" means the same as that term is defined in Section 76-11-101.

10192 (vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include a controlled substance as defined in [Title 58, Chapter 37, Utah

Controlled Substances Act] Title 58, Chapter 37, Controlled Substances.

10196 (viii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

10198 (ix) "Nicotine product" means the same as that term is defined in Section 76-9-1101.

10199 (x) "Offender" means an individual in custody at a correctional facility.

10200 (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

10201 (xii) "Tobacco product" means the same as that term is defined in Section 76-9-1101.

10202 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

10203 (2)

10207 (a) Notwithstanding Section 53-5a-102, a correctional facility or mental health facility may prohibit a firearm, ammunition, a dangerous weapon, an implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison from being:

10208 (i) transported to or within a correctional facility or mental health facility;

10210 (ii) sold or given away to an offender at a correctional facility or mental health facility; or

10212 (iii) possessed by an offender or another individual at a correctional facility or mental health facility.

10213 (b) A correctional facility may prohibit a communication device from being:

10214 (i) transported within the correctional facility for the purpose of being sold to an offender in the correctional facility;

10215 (ii) sold or given away to an offender in the correctional facility; or

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10216 (iii) possessed by an offender or another individual at the correctional facility.

10217 (3) It is a defense to a prosecution related to this section that the actor, in committing the act made criminal by this section with respect to:

10219 (a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

10221 (b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

10223 (c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

10225 (d) a mental health facility, acted in conformity with the policy of the mental health facility.

10227 (4)

10230 (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or 76-8-311.11 for a violation of a policy or rule created under this section.

10230 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-15-210 or 76-15-211.

10233 (c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under ~~Title 58, Chapter 37, Utah Controlled Substances Act~~ Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances.

10237 (5) Exemptions to a policy or rule created under this section may be granted for worship of Native American inmates in accordance with Section 64-13-40.

10296 Section 167. Section **76-8-311.10** is amended to read:

10297 **76-8-311.10. Possession of contraband in a correctional facility.**

10242 (1)

10243 (a) As used in this section:

10243 (i) "Contraband" means an item not specifically prohibited for possession by an offender under this section or Section 76-8-311.3, 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, or 76-8-311.9.

10246 (ii) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

10248 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

10249

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(2) An actor commits possession of contraband in a correctional facility if the actor, without the permission of the authority operating a correctional facility, knowingly engages in an activity that would facilitate the possession of contraband by an offender in the correctional facility.

10253 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B misdemeanor.

10255 (4)

(a) The possession, distribution, or use of a controlled substance at a correctional facility shall be prosecuted in accordance with [Title 58, Chapter 37, Utah Controlled Substances Act] Chapter 18, Part 2, Offenses Concerning Controlled Substances.

10258 (b) The provisions of Section 76-8-311.9 take precedence over this section.

10259 (c) The defenses provided in Section 76-8-311.3 apply to this section.

10317 Section 168. Section **76-9-1110** is amended to read:

10318 **76-9-1110. Abuse of psychotoxic chemical solvent.**

10262 (1)

(a) As used in this section, "psychotoxic chemical solvent" includes any glue, cement, or other substance containing one or more of the following chemical compounds:

10264 (i) acetone and acetate;

10265 (ii) amyl nitrite or amyl nitrate or their isomers;

10266 (iii) benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers;

10267 (iv) ethyl alcohol, ethyl nitrite, or ethyl nitrate;

10268 (v) ethylene dichloride;

10269 (vi) isobutyl alcohol;

10270 (vii) methyl alcohol;

10271 (viii) methyl ethyl ketone;

10272 (ix) n-propyl alcohol;

10273 (x) pentachlorophenol;

10274 (xi) petroleum ether;

10275 (xii) propyl nitrite or propyl nitrate or their isomers;

10276 (xiii) toluene;

10277 (xiv) xylene; or

10278

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- (xv) another chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

10281 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

10282 (2) Except as provided in Subsection (4), an actor commits abuse of psychotoxic chemical solvent if:

10284 (a) for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the actor's brain or nervous system, the actor intentionally:

10287 (i) smells or inhales the fumes of a psychotoxic chemical solvent; or

10288 (ii) possesses, purchases, or attempts to possess or purchase a psychotoxic chemical solvent; or

10290 (b) the actor offers, sells, or provides a psychotoxic chemical solvent to another person, knowing that other person or a third party intends to possess or use that psychotoxic chemical solvent in violation of Subsection (2)(a).

10293 (3) A violation of Subsection (2) is a class B misdemeanor.

10294 (4) This section does not apply to:

10295 (a) the prescribed use, distribution, or sale of a psychotoxic chemical solvent for a medical or dental purpose; or

10297 (b) a controlled substance regulated by the provisions of ~~[Title 58, Chapter 37, Utah Controlled Substances Act]~~ Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances.

10357 Section 169. Section **76-9-1301** is amended to read:

10358 **76-9-1301. Definitions.**

10359 As used in this part:

10303 (1) "Controlled substance" means the same as that term is defined in Section ~~[58-37-2]~~ 58-37-101.

10305 (2) "Nuisance" means an item, thing, manner, or condition that:

10306 (a) is dangerous to human life or health; or

10307 (b) renders soil, air, water, or food impure or unwholesome.

10308 (3)

10309 (a) "Public nuisance" means unlawfully committing an act or omitting to perform a duty, which act or duty:

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- (i) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons, regardless of the extent to which the annoyance, injury, or endangerment inflicted on the persons is unequal;
- (ii) offends public decency;
- (iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a lake, stream, canal, or basin, or a public park, square, street, or highway;
- (iv) is a nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction; or
- (v) renders three or more persons insecure in life or the use of property, regardless of the extent to which the effect inflicted on the persons is unequal.

(b) "Public nuisance" is presumed to not include:

- (i) activities conducted in the normal and ordinary course of agricultural operations, as defined in Section 4-44-102, and conducted in accordance with sound agricultural practices, with the presumption that agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are operating within sound agricultural practices; or
- (ii) activities conducted in the normal and ordinary course of critical infrastructure materials operations, as defined in Section 78B-6-1101, and conducted in accordance with sound critical infrastructure materials practices, with the presumption that critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are operating within sound critical infrastructure materials operations.

(4)

- (a) "Supervised drug consumption site" means a facility or premises operated or intended to provide an environment for the unlawful use of a controlled substance.
- (b) "Supervised drug consumption site" does not include a facility or premises that provides or facilitates:

- (i) an opioid treatment program, as that term is defined in Section 58-17b-309.7; or
- (ii) the use of medication pursuant to a medication assisted treatment plan, as that term is defined in Section 64-13-25.1.

Section 170. Section **76-9-1505** is amended to read:

76-9-1505. Unlawful conduct while on a bus.

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10343 (1)

(a) As used in this section, "controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

10345 (b) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

10346 (2) An actor commits unlawful conduct while on a bus if the actor:

10347 (a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar language on a bus;

10349 (b) is in or upon any bus while unlawfully under the influence of a controlled substance;

10350 (c) fails to obey a reasonable request or order of a bus driver, bus company representative, a nondrinking designee other than the driver as provided in Subsection 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or terminal;

10354 (d) ingests a controlled substance, unless prescribed by a physician or a medical facility, in or upon any bus, or drinks intoxicating liquor in or upon a bus, except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526; or

10357 (e) smokes tobacco or other products in or upon a bus, except a chartered bus.

10358 (3) A violation of Subsection (2) is a class C misdemeanor.

10359 (4)

(a) If an actor violates Subsection (2), the driver of the bus or individual in charge thereof may stop at the place where the offense is committed or at the next regular or convenient stopping place and remove the actor, using only such force as may be necessary to accomplish the removal, and the driver or individual in charge may request the assistance of passengers to assist in removing the actor.

10364 (b) The driver or individual in charge may cause the removed actor to be detained and delivered to the proper authorities.

10423 Section 171. Section **76-11-217** is amended to read:

10424 **76-11-217. Carrying a dangerous weapon while under the influence of alcohol or drugs.**

10369 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

10370 (2) An actor commits carrying a dangerous weapon while under the influence of alcohol or drugs if the actor:

10372 (a) carries a dangerous weapon that is readily accessible by the actor for immediate use; and

10374 (b) is under the influence of:

10375

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- (i) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or
- (ii) a controlled substance as defined in Section [58-37-2] 58-37-101.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to:

- (a) an actor who uses or threatens to use force in compliance with Section 76-2-402;
- (b) an actor carrying a dangerous weapon in the actor's residence or the residence of another individual with the consent of the individual who is lawfully in possession of the residence;
- (c) an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
- (d) an actor who:
 - (i) has a valid prescription for a controlled substance;
 - (ii) takes the controlled substance described in Subsection (4)(d)(i) as prescribed; and
 - (iii) after taking the controlled substance, the actor:
 - (A) is not a danger to the actor or another individual; or
 - (B) is capable of safely handling a dangerous weapon.

(5) It is not a defense to prosecution under this section that the actor:

- (a) is licensed in the pursuit of wildlife of any kind;
- (b) has a concealed carry permit as described in Section 53-5a-303;
- (c) has a provisional concealed carry permit as described in Section 53-5a-304;
- (d) has a temporary concealed carry permit issued under Section 53-5a-305;
- (e) has a concealed carry permit lawfully issued by or in another state; or
- (f) is 21 years old or older and may otherwise lawfully possess a concealed loaded firearm without a concealed carry permit as described in Section 53-5a-101.5.

Section 172. Section **76-11-301** is amended to read:

76-11-301. Definitions.

As used in this part:

- (1) "Adjudicated" means a judgment has been entered against a minor for an offense by a juvenile court under Section 80-6-701.
- (2) "Category I restricted person" means an individual described in Section 76-11-302.

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10408 (3) "Category II restricted person" means an individual described in Section 76-11-303.

10409 (4) "Carry" means for an individual to have an item under the individual's custody or control.

10411 (5) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

10413 (6)

10415 (a) "Dating relationship" means a romantic or intimate relationship between individuals.

10417 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

10418 (7) "Dealer" means a person who is:

10419 (a) licensed under 18 U.S.C. Sec. 923; and

10419 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or other type of merchant or seller.

10422 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

10423 (9) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

10424 (10) "Schedule I controlled substance" means a substance listed as a schedule I controlled substance in Section [58-37-4] 58-37-108.

10426 (11) "Schedule II controlled substance" means a substance listed as a schedule II controlled substance in Section [58-37-4] 58-37-108.

10428 (12) "Secure care" means the same as that term is defined in Section 80-1-102.

10429 (13) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

10487 Section 173. Section **76-11-302** is amended to read:

10488 **76-11-302. Category I restricted person established.**

10489 Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to restricted person categories, an individual is categorized as a category I restricted person and subject to the restrictions and penalties described in Section 76-11-305:

10435 (1) if the individual has been convicted of a violent felony;

10436 (2) if the individual is on probation or parole for a felony;

10437 (3) if the individual is on parole from secure care;

10438 (4) for 10 years after the day on which the individual was adjudicated for an offense which if committed by an adult would have been a violent felony;

10440 (5) if the individual is an alien who is illegally or unlawfully in the United States, including an alien who has:

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10442 (a) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is waiting for a disposition on the application; or

10444 (b) submitted a temporary protected status application in accordance with 8 U.S.C. Sec. 1254a and is waiting for a disposition on the application; or

10446 (6) if the individual is on probation for a conviction of possessing:

10447 (a) a substance classified in Section [58-37-4] 58-37-108 as a Schedule I or II controlled substance;

10449 (b) a controlled substance analog; or

10450 (c) a substance listed in Section [58-37-4.2] 58-37-109.

10508 Section 174. Section **76-17-401** is amended to read:

10509 **76-17-401. Definitions.**

As used in this part:

10454 (1)

10457 (a) "Enterprise" means an individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and a union or group of individuals associated in fact although not a legal entity.

10458 (b) "Enterprise" includes illicit as well as licit entities.

10458 (2) "Pattern of unlawful activity" means engaging in conduct that constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

10468 (3) "Person" includes an individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

10470 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct that would constitute an offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act that would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by an authority or is classified as a misdemeanor or a felony:

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- 10476 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;
- 10478 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;
- 10480 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;
- 10483 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
- 10485 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;
- 10487 (f) unlawful marking of pistol or revolver under Section 53-5a-105;
- 10488 (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;
- 10489 (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
- 10491 (i) an act prohibited by the criminal provisions under [Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act] Chapter 18, Part 2, Offenses Concerning Controlled Substances, Part 4, Offenses Concerning Imitation Controlled Substances, Part 5, Clandestine Drug Labs, Title 58, Chapter 37, Controlled Substances, or Title 58, Chapter 37c, Controlled Substance Precursors;
- 10498 (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;
- 10500 (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;
- 10502 (l) assault under Section 76-5-102;
- 10503 (m) aggravated assault under Section 76-5-103;
- 10504 (n) a threat of terrorism under Section 76-5-107.3;
- 10505 (o) a criminal homicide offense under Section 76-5-201;
- 10506 (p) kidnapping under Section 76-5-301;
- 10507 (q) aggravated kidnapping under Section 76-5-302;
- 10508 (r) human trafficking for labor under Section 76-5-308;
- 10509 (s) human trafficking for sexual exploitation under Section 76-5-308.1;
- 10510 (t) human smuggling under Section 76-5-308.3;

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- 10511 (u) human trafficking of a child under Section 76-5-308.5;
- 10512 (v) benefiting from trafficking and human smuggling under Section 76-5-309;
- 10513 (w) aggravated human trafficking under Section 76-5-310;
- 10514 (x) sexual exploitation of a minor under Section 76-5b-201;
- 10515 (y) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 10516 (z) sexual extortion under Section 76-5b-204;
- 10517 (aa) arson under Section 76-6-102;
- 10518 (bb) aggravated arson under Section 76-6-103;
- 10519 (cc) causing a catastrophe under Section 76-6-105;
- 10520 (dd) burglary under Section 76-6-202;
- 10521 (ee) aggravated burglary under Section 76-6-203;
- 10522 (ff) burglary of a vehicle under Section 76-6-204;
- 10523 (gg) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
- 10525 (hh) robbery under Section 76-6-301;
- 10526 (ii) aggravated robbery under Section 76-6-302;
- 10527 (jj) theft under Section 76-6-404;
- 10528 (kk) theft by deception under Section 76-6-405;
- 10529 (ll) theft by extortion under Section 76-6-406;
- 10530 (mm) receiving stolen property under Section 76-6-408;
- 10531 (nn) theft of services under Section 76-6-409;
- 10532 (oo) forgery under Section 76-6-501;
- 10533 (pp) unlawful use of financial transaction card under Section 76-6-506.2;
- 10534 (qq) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
- 10536 (rr) financial transaction card offenses under Section 76-6-506.6;
- 10537 (ss) deceptive business practices under Section 76-6-507;
- 10538 (tt) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
- 10540 (uu) bribery of a labor official under Section 76-6-509;
- 10541 (vv) defrauding creditors under Section 76-6-511;
- 10542 (ww) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 10543 (xx) unlawful dealing with property by fiduciary under Section 76-6-513;

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10544 (yy) unlawful influence of a contest under Section 76-6-514;
10545 (zz) making a false credit report under Section 76-6-517;
10546 (aaa) criminal simulation under Section 76-6-518;
10547 (bbb) criminal usury under Section 76-6-520;
10548 (ccc) insurance fraud under Section 76-6-521;
10549 (ddd) retail theft under Section 76-6-602;
10550 (eee) computer crimes under Section 76-6-703;
10551 (fff) identity fraud under Section 76-6-1102;
10552 (ggg) mortgage fraud under Section 76-6-1203;
10553 (hhh) sale of a child under Section 76-7-203;
10554 (iii) bribery or offering a bribe under Section 76-8-103;
10555 (jjj) threat to influence official or political action under Section 76-8-104;
10556 (kkk) receiving bribe or bribery by public servant under Section 76-8-105;
10557 (lll) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
10559 (mmm) bribery for endorsement of person as public servant under Section 76-8-106.1;
10560 (nnn) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
10562 (ooo) official misconduct concerning inside information under Section 76-8-202;
10563 (ppp) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
10565 (qqq) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
10567 (rrr) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
10569 (sss) making a false or inconsistent material statement under Section 76-8-502;
10570 (ttt) making a false or inconsistent statement under Section 76-8-503;
10571 (uuu) making a written false statement under Section 76-8-504;
10572 (vvv) tampering with a witness under Section 76-8-508;
10573 (www) retaliation against a witness, victim, or informant under Section 76-8-508.3;
10574 (xxx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
10575 (yyy) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
10576 (zzz) tampering with evidence under Section 76-8-510.5;
10577 (aaaa) falsification or alteration of a government record under Section 76-8-511, if the record is a record
described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation
Act;

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10580 (bbbb) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;

10582 (cccc) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

10584 (dddd) public assistance fraud by a provider under Section 76-8-1203.5;

10585 (eeee) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

10586 (ffff) false statement to obtain or increase unemployment compensation under Section 76-8-1301;

10588 (gggg) false statement to prevent or reduce unemployment compensation or liability under Section
76-8-1302;

10590 (hhhh) unlawful failure to comply with Employment Security Act requirements under Section
76-8-1303;

10592 (iiii) unlawful use or disclosure of employment information under Section 76-8-1304;

10593 (jjjj) intentionally or knowingly causing one animal to fight with another under Subsection
76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning dog fighting;

10596 (kkkk) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang under
Section 76-9-803;

10598 (llll) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang
under Section 76-9-803.1;

10600 (mmmm) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;

10602 (nnnn) aggravated intimidating a minor to remain in a criminal street gang under Section 76-9-803.3;

10604 (oooo) unlawful conduct involving an explosive, chemical, or incendiary device under Section
76-15-210;

10606 (pppp) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;

10608 (qqqq) unlawful delivery or mailing of an explosive, chemical, or incendiary device under Section
76-15-209;

10610 (rrrr) forging or counterfeiting trademarks, trade name, or trade device under Section 76-16-302;

10612 (ssss) selling goods under counterfeited trademark, trade name, or trade devices under Section
76-16-303;

10614 (tttt) sales in containers bearing registered trademark of substituted articles under Section 76-16-304;

10616 (uuuu) selling or dealing with article bearing registered trademark or service mark with intent to defraud
under Section 76-16-306;

10618 (vvvv) participating in gambling under Section 76-9-1402;

10619 (wwww) permitting gambling under Section 76-9-1403;

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10620 (xxxx) online gambling prohibition under Section 76-9-1404;
10621 (yyyy) gambling promotion under Section 76-9-1405;
10622 (zzzz) gambling fraud under Section 76-9-1406;
10623 (aaaaa) possessing a gambling device or record under Section 76-9-1407;
10624 (bbbb) obtaining a benefit from a confidence game under Section 76-9-1410;
10625 (cccc) distributing pornographic material under Section 76-5c-202;
10626 (ddddd) aiding or abetting a minor in distributing pornographic material under Section 76-5c-203;
10628 (eeee) inducing acceptance of pornographic material under Section 76-5c-204;
10629 (fffff) distributing material harmful to minors under Section 76-5c-205;
10630 (ggggg) aiding or abetting a minor in distributing material harmful to minors under Section 76-5c-206;
10632 (hhhhh) distribution of a pornographic file for exhibition under Section 76-5c-305;
10633 (iiiii) indecent public display in the presence of a minor under Section 76-5c-207;
10634 (jjjjj) engaging in prostitution under Section 76-5d-202;
10635 (kkkkk) aiding prostitution under Section 76-5d-206;
10636 (lllll) exploiting prostitution under Section 76-5d-207;
10637 (mmmmm) aggravated exploitation of prostitution under Section 76-5d-208;
10638 (nnnnn) communications fraud under Section 76-6-525;
10639 (ooooo) possession of a dangerous weapon with criminal intent under Section 76-11-208;
10640 (ppppp) an act prohibited by the criminal provisions of Chapter 9, Part 16, Money Laundering and
Currency Transaction Reporting;
10642 (qqqqq) vehicle compartment for contraband under Section 76-9-1902 or 76-9-1903;
10643 (rrrrr) an act prohibited by the criminal provisions of the laws governing taxation in this state; or
10645 (sssss) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Secs. 1961(1)(B),
(C), and (D).

10704 Section 175. Section **175** is enacted to read:

10707 **76-18-101. Definitions.**

18. Drug Offenses

1. General Provisions

Reserved.

10709 Section 176. Section **176** is enacted to read:

10710 **76-18-102. Applicable provisions to chapter from other titles.**

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Sections 58-37-309 and 58-37-402 are applicable to this chapter.

10712 Section 177. Section **177** is enacted to read:

76-18-201. Definitions.

10714 2. Offenses Concerning Controlled Substances

10658 (1) As used in this part:

10659 (a) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, other legal entity, or any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct that constitutes the commission of episodes of activity made unlawful by this part, Part 3, Offenses Concerning Drug Paraphernalia, Part 4, Offenses Concerning Imitation Controlled Substances, Part 5, Clandestine Drug Labs, or Title 58, Chapter 37, Controlled Substances, or Title 58, Chapter 37c, Controlled Substance Precursors, which episodes:

10668 (i) are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics; and

10671 (ii) taken together, demonstrate continuing unlawful conduct and are related either to each other or to the enterprise.

10673 (b) "Indian" means a member of an Indian tribe.

10674 (c) "Indian religion" means a religion:

10675 (i) the origin and interpretation of which is from within a traditional Indian culture or community; and

10677 (ii) that is practiced by Indians.

10678 (d) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, that is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of the Indians' status as Indians.

10682 (2) Terms defined in Sections 58-37-101, 76-1-101.5, and 76-18-101 apply to this part.

10740 Section 178. Section **178** is enacted to read:

76-18-202. Applicable provisions to part from other titles.

10741 The following sections from Title 58, Chapter 37, Controlled Substances, apply to this part:

10687 (1) Section 58-37-101, Definitions;

10688 (2) Section 58-37-102, Applicability of chapter -- Uniform construction;

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10689 (3) Section 58-37-104, Severability;
10690 (4) Section 58-37-105, Division responsibilities -- Licensing -- Records required;
10691 (5) Section 58-37-107, Controlled substances;
10692 (6) Section 58-37-108, Schedules of controlled substances -- Schedules I through V -- Findings required
 -- Specific substances included in schedules;
10694 (7) Section 58-37-109, Listed controlled substances;
10695 (8) Section 58-37-110, Recognized controlled substance analogs;
10696 (9) Section 58-37-111, Exceptions to applicability for certain herbs and food supplements;
10697 (10) Section 58-37-114, Burden of proof in proceedings on violations;
10698 (11) Section 58-37-115, Restrictions on liability for law enforcement;
10699 (12) Section 58-37-202, Applicability of Title 76 to prosecutions;
10700 (13) Section 58-37-203, Enforcement -- Coordination and cooperation of federal and state agencies --
 Powers;
10702 (14) Section 58-37-204, Investigators -- Status of peace officers;
10703 (15) Section 58-37-206, Court to enjoin a violation -- Jury trial;
10704 (16) Section 58-37-208, Prima facie evidence;
10705 (17) Section 58-37-210, Penalties -- Bar to state prosecution;
10706 (18) Section 58-37-308, Veterinary exemption for gabapentin;
10707 (19) Section 58-37-403, Exemption for possession or distribution of a cannabinoid product, expanded
 cannabinoid product, or transportable industrial hemp concentrate;
10709 (20) Section 58-37-404, Medical cannabis decriminalization; and
10710 (21) Section 58-37-405, Enforcement.
10768 Section 179. Section **179** is enacted to read:
10769 **76-18-203. Exemptions and affirmative defenses applicable to certain drug crimes.**
10714 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.
10716 (2)
 (a) Civil or criminal liability may not be imposed under an offense listed in Subsection (2)(b) on any
 Indian who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in
 connection with the practice of a traditional Indian religion.
10720 (b) The offenses referred to in Subsection (2)(a) are:
10721

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- (i) unlawfully possessing or using a controlled substance or a controlled substance analog under Section 76-18-207;
- 10723 (ii) unlawfully producing, manufacturing, or dispensing a controlled substance or counterfeit substance under Section 76-18-208;
- 10725 (iii) unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance under Section 76-18-209;
- 10727 (iv) unlawfully possessing a controlled substance or counterfeit substance with intent to distribute under Section 76-18-210;
- 10729 (v) unlawfully engaging in a continuing criminal enterprise involving drugs under Section 76-18-211;
- 10731 (vi) unlawfully allowing possession, use, or distribution of a controlled substance on the premises under Section 76-18-212;
- 10733 (vii) unlawful possession of an altered or forged prescription or order for a controlled substance under Section 76-18-213;
- 10735 (viii) unlawful use of a license number in the course of manufacturing or distributing a controlled substance under Section 76-18-214;
- 10737 (ix) unlawful misrepresentation as an authorized person to obtain a controlled substance under Section 76-18-215;
- 10739 (x) unlawful conduct to obtain a controlled substance under Section 76-18-216;
- 10740 (xi) unlawfully prescribing or dispensing a controlled substance to a person known to be using unlawful means under Section 76-18-217;
- 10742 (xii) unlawfully making, forging, altering, or uttering a prescription or a written order under Section 76-18-218; and
- 10744 (xiii) unlawful materials to create a counterfeit controlled substance under Section 76-18-219.
- 10746 (c)
 - (i) In a prosecution alleging a violation of an offense listed in Subsection (2)(b) regarding peyote as defined in Section 58-37-108, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.
 - 10751 (ii)
 - (A) A defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (2) as soon as practicable, but not later than 10 days before trial.

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10754 (B) The notice shall include the specific claims of the affirmative defense.

10755 (C) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

10758 (iii)

10760 (A) A defendant shall establish the affirmative defense under this Subsection (2) by a preponderance of the evidence.

10761 (B) If the defense is established, it is a complete defense to the charges.

10761 (3) An offense listed in Subsection (2)(b) does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances, or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

10766 (4) Civil or criminal liability may not be imposed under an offense listed in Subsection (2)(b) against:

10768 (a) a person registered under this chapter or Title 58, Chapter 37, Controlled Substances, who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or an investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

10772 (b) a law enforcement officer acting in the course and legitimate scope of the law enforcement officer's employment; or

10774 (c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled substance or counterfeit substance to conduct a test or analysis on the controlled substance or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

10779 (5)

10781 (a) It is an affirmative defense that a person produced, possessed, or administered a controlled substance listed in Section 58-37-109 if the person was:

10782 (i) engaged in medical research; and

10782 (ii) a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113.

10784 (b) It is not a defense under Subsection (5)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-109.

10786

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(6) It is an affirmative defense that a person possessed, in the person's body, a controlled substance listed in Section 58-37-109 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; and

(b) the substance was administered to the person by the medical researcher.

Section 180. Section **180** is enacted to read:

76-18-204. Enhanced penalties and sentencing for certain drug offenses.

(1)

(a) As used in this section, "correctional facility" means the same as that term is defined in Section 76-8-311.3.

(b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

(2)

(a) An actor not authorized under this part or Title 58, Chapter 37, Controlled Substances, who commits any act that is unlawful under Subsection (2)(b) is, upon conviction, subject to the penalties and classifications under Subsection (3) if the trier of fact finds that the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of a public or private elementary or secondary school during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of a public or private vocational school or postsecondary institution during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or child-care facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-11-201;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of a structure, facility, or grounds included in Subsections (2)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

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(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of an offense listed in Subsection (2)(b) to an inmate or on the grounds of a correctional facility.

10821 (b) The offenses described in Subsection (2)(a) are:

10822 (i) unlawfully producing, manufacturing, or dispensing a controlled substance or counterfeit substance under Section 76-18-208;

10824 (ii) unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance under Section 76-18-209;

10826 (iii) unlawfully possessing a controlled substance or counterfeit substance with intent to distribute under Section 76-18-210;

10828 (iv) unlawfully engaging in a continuing criminal enterprise involving drugs under Section 76-18-211;

10830 (v) unlawful manufacture of an imitation controlled substance under Section 76-18-404; and

10832 (vi) unlawful distribution or possession with intent to distribute an imitation controlled substance under Section 76-18-405.

10834 (3)

10837 (a) Except as provided in Subsection (3)(b) or (c), an actor who is convicted of an enhancement under this section is guilty of one degree more than the maximum penalty prescribed for the offense described in Subsection (2)(b).

(b)

(i) The court shall sentence an actor who is convicted of a first degree felony under this section, who would have been convicted of a first degree felony under an offense listed in Subsection (2)(b) regardless of the application of this section, for a term of imprisonment of not less than five years.

10841 (ii) Imposition or execution of the sentence described in Subsection (3)(b)(i) may not be suspended, and the actor is not eligible for probation.

10843 (c) If the violation is of Subsection (2)(a)(ix):

(i)

(A) the actor may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the actor for a term of one year to run consecutively and not concurrently; and

10847 (B) the court may additionally sentence the actor for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

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10849 (ii) the penalties under Subsection (3)(c)(i) also apply to an actor who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (2)(a)(ix).

10853 (4) It is not a defense to a sentencing enhancement under Subsection (3) that:

10854 (a) if the enhancement is for a violation of Subsection (2)(a)(viii), the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

10857 (b) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (2)(a) or was unaware that the location where the act occurred was as described in Subsection (2)(a).

10917 Section 181. Section **181** is enacted to read:

76-18-205. Unlawful alteration or removal of a controlled substance label.

10863 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

10865 (2) An actor commits unlawful alteration or removal of a controlled substance label if:

10866 (a) the actor:

10867 (i) alters the face of a label on a container containing a controlled substance; or

10868 (ii) removes a label on a container containing a controlled substance; and

10869 (b) any of the original contents of the container described in Subsection (2)(a) remain.

10870 (3) A violation of Subsection (2) is a class B misdemeanor.

10928 Section 182. Section **182** is enacted to read:

76-18-206. Unlawful failure to use original controlled substance container.

10874 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

10876 (2) An actor commits unlawful failure to use original controlled substance container if the actor:

10878 (a)

(i) is an individual to whom, or for whose use, a controlled substance has been prescribed, sold, or dispensed by a practitioner; or

10880 (ii) is the owner of an animal for which a controlled substance has been prescribed, sold, or dispensed by a veterinarian; and

10882 (b) possesses the controlled substance in a manner other than in the container in which the controlled substance was delivered to the actor by the person selling or dispensing the controlled substance.

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10885 (3) A violation of Subsection (2) is a class B misdemeanor.

10886 (4) It is a defense to a prosecution under this section if the actor produces in court a valid prescription
for the controlled substance or the original container with the label attached.

10945 Section 183. Section **183** is enacted to read:

10946 **76-18-207. Unlawfully possessing or using a controlled substance or controlled substance**
analog.

10891 (1)

10892 (a) As used in this section:

10893 (i) "Correctional facility" means the same as that term is defined in Section 64-13-1.

10894 (ii) "Good faith" does not include seeking medical assistance under this section during the course
of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or
other lawful search.

10895 (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

10896 (2) An actor commits unlawfully possessing or using a controlled substance or a controlled substance
analog if the actor knowingly and intentionally possesses or uses a controlled substance or a
controlled substance analog, unless the controlled substance or controlled substance analog was
obtained:

10902 (a) under a valid prescription or order;

10903 (b) directly from a practitioner while acting in the course of the practitioner's professional practice; or

10905 (c) as otherwise authorized by this part or Title 58, Chapter 37, Controlled Substances.

10906 (3) Subject to Subsection (4), a violation of Subsection (2) is:

10907 (a) a second degree felony if the substance is marijuana and the amount is 100 pounds or more;

10909 (b) a third degree felony if:

10910 (i)

10911 (A) the substance is a substance classified in Schedule I or II or a controlled substance analog, not
including marijuana; and

10912 (B) the actor's current violation results in the actor receiving at least a third conviction under this
section and each of the actor's previous convictions were based on a violation committed within
seven years before the date of the violation upon which the current conviction is based; or

10916 (ii) the violation would otherwise qualify under Subsection (3)(d), but the actor's current violation
results in the actor receiving at least a fourth conviction under this section and each of the actor's

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previous convictions were based on a violation committed within seven years before the date of the violation upon which the current conviction is based;

10921 (c) a class A misdemeanor if:

10922 (i)

(A) the substance is a substance classified in Schedule I or II or a controlled substance analog, not including marijuana; and

10924 (B) the current violation is the actor's first or second conviction under this section or does not qualify as a third degree felony under Subsection (3)(b); or

10926 (ii) the violation would otherwise qualify under Subsection (3)(d), but the actor's current violation results in the actor receiving at least a third conviction under this section and each of the actor's previous convictions were based on a violation committed within seven years before the date of the violation upon which the current conviction is based; or

10931 (d) if Subsection (3)(a), (b), or (c) does not apply, a class B misdemeanor, including a substance listed in Section 58-37-109 or marijuana.

10933 (4)

(a) Except as provided in Subsection (4)(c) and subject to Subsection (5), upon an actor's conviction of a violation of this section, if the actor has previously been convicted of a violation of Section 76-18-208, 76-18-209, 76-18-210, or 76-18-211, the court shall sentence the actor to a penalty that is one degree higher than the applicable penalty provided in Subsection (3).

10938 (b)

(i) Except as provided in Subsection (4)(c) and subject to Subsection (5), the court shall sentence an actor convicted of violating this section to a penalty that is one degree higher than the applicable penalty provided in Subsection (3)(a), (3)(b)(i), or (3)(c)(i), if the violation of this section occurs while the actor is inside the exterior boundaries of property occupied by:

10943 (A) a correctional facility;

10944 (B) a public jail; or

10945 (C) another place of confinement.

10946 (ii) Except as provided in Subsection (4)(c) and subject to Subsection (5), if an actor is subject to an enhanced penalty under Subsection (4)(b)(i) and the violation of this section is based on a controlled substance listed in Subsection (3)(a) or (3)(b)(i), the actor may be sentenced to imprisonment for an indeterminate term as provided by law, and:

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10951 (A) the court shall additionally sentence the actor to a term of one year to run consecutively and not concurrently; and

10953 (B) the court may additionally sentence the actor for an indeterminate term not to exceed five years to run consecutively and not concurrently.

10955 (iii) Except as provided in Subsection (4)(c) and subject to Subsection (5), if an actor is subject to an enhanced penalty under Subsection (4)(b)(i) and the violation of this section is based on a controlled substance that would qualify for punishment under Subsection (3)(d), the actor may be sentenced to imprisonment for an indeterminate term as provided by law and the court shall additionally sentence the actor to a term of six months to run consecutively and not concurrently.

10961 (5) The application of any increase in penalty under this section may not result in any greater penalty than a second degree felony.

10963 (6)
(a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

10968 (b) A previous conviction used for a penalty enhancement under this section may only be a conviction that:

10970 (i) is from a separate criminal episode than the current conviction under this section; and

10972 (ii) has not already been used under a separate penalty enhancement provision to enhance the conviction under this section.

10974 (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

10977 (7)
(a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

10980 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

10982 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

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10983 (8) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.

10986 (9) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

10988 (a) a screening as defined in Section 41-6a-501;

10989 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9)(a) indicates that an assessment is appropriate; and

10991 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

10993 (10)

10995 (a) It is an affirmative defense to a violation of Subsection (2) if the circumstances listed in Subsection (10)(b) apply and the actor or bystander:

(i) reasonably believes that the actor or another individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

10998 (ii) reports, or assists an individual who reports, in good faith, the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the actor is the subject of a report made under this section;

11003 (iii) provides, in the report described in Subsection (10)(a)(ii), a functional description of the actual location of the overdose event that facilitates responding to the individual experiencing the overdose event;

11006 (iv) remains at the location of the individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the individual experiencing an overdose event is located until a responding law enforcement officer arrives;

11010 (v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the individual experiencing the overdose event and any substances the individual may have injected, inhaled, or otherwise introduced into the individual's body; and

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11014 (vi) is alleged to have committed the offense in the same course of events from which the reported
overdose arose.

11016 (b) The circumstances referred to in Subsection (10)(a) are:

11017 (i) the possession or use of less than 16 ounces of marijuana; or

11018 (ii) the possession or use of a scheduled or listed controlled substance other than marijuana.

11077 Section 184. Section **184** is enacted to read:

11078 **76-18-208. Unlawfully producing, manufacturing, or dispensing a controlled substance or**
counterfeit substance.

11023 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11025 (2) Except as authorized by this part or Title 58, Chapter 37, Controlled Substances, and under
circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or
a fentanyl-related substance, an actor commits unlawfully producing, manufacturing, or dispensing a
controlled substance or counterfeit substance if the actor knowingly and intentionally:

11030 (a) produces, manufactures, or dispenses a controlled substance or a counterfeit substance; or

11032 (b) possesses, with the intent to produce, manufacture, or dispense, a controlled substance or a
counterfeit substance.

11034 (3)

11036 (a) Except as provided in Subsection (3)(b) and subject to Subsections (4) and (5), a violation of
Subsection (2) is:

11037 (i) a second degree felony if the controlled substance or counterfeit substance is:

11037 (A) a substance or a counterfeit of a substance classified in Schedule I or II, not including marijuana;

11039 (B) a controlled substance analog; or

11040 (C) gammahydroxybutyric acid as listed in Schedule III;

11041 (ii) a third degree felony if the controlled substance or counterfeit substance is:

11042 (A) a substance or a counterfeit of a substance classified in Schedule III or IV;

11043 (B) marijuana; or

11044 (C) a substance listed in Section 58-37-109; or

11045 (iii) a class A misdemeanor if the controlled substance or counterfeit substance is a substance or
counterfeit substance of a substance classified in Schedule V.

11047 (b) Subject to Subsections (4) and (5), a second or subsequent conviction under:

11048 (i) Subsection (3)(a)(i) is a first degree felony;

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11049 (ii) Subsection (3)(a)(ii) is a second degree felony; or
11050 (iii) Subsection (3)(a)(iii) is a third degree felony.

11051 (4)
(a) A court shall impose a mandatory jail sentence of 360 days in jail, and may not suspend any portion of the jail sentence or grant early release, if:
11053 (i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of an offense under this section;
11056 (ii)
(A) the violation is the actor's second or subsequent conviction for any level of offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; or
11058 (B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; and
11062 (iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.

11064 (b)
(i) Except as provided in Subsection (4)(b)(ii), an actor who is subject to a mandatory jail sentence under Subsection (4)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (4)(a).
11069 (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (4)(a).

11073 (5) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.

11077 (6)
(a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

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11082 (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11085 (7) (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11088 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11090 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11091 (8) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.

11094 (9) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11096 (a) a screening as defined in Section 41-6a-501;

11097 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9)(a) indicates that an assessment is appropriate; and

11099 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

11158 Section 185. Section **185** is enacted to read:

11159 **76-18-209. Unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance.**

11104 (1) (a) As used in this section:

11105 (i) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

11106 (ii) "Firearm" means the same as that term is defined in Section 76-11-101.

11107 (iii) "Readily accessible for immediate use" means the same as that term is defined in Section 76-11-201.

11109 (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

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(2) Except as authorized by this chapter or Title 58, Chapter 37, Controlled Substances, and under circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or a fentanyl-related substance, an actor commits unlawfully distributing or agreeing to distribute a controlled substance or counterfeit substance if the actor knowingly and intentionally:

(a) distributes a controlled substance or a counterfeit substance; or

(b) agrees, consents, offers, or arranges to distribute a controlled substance or a counterfeit substance.

(3)

(a) Except as provided in Subsection (3)(b) and subject to Subsections (4), (5), and (6), a violation of Subsection (2) is:

(i) a second degree felony if the controlled substance or counterfeit substance is:

(A) a substance or a counterfeit of a substance classified in Schedule I or II, not including marijuana;

(B) a controlled substance analog; or

(C) gammahydroxybutyric acid as listed in Schedule III;

(ii) a third degree felony if the controlled substance or counterfeit substance is:

(A) a substance or a counterfeit of a substance classified in Schedule III or IV;

(B) marijuana; or

(C) a substance listed in Section 58-37-109; or

(iii) a class A misdemeanor if the controlled substance or counterfeit substance is a substance or counterfeit substance of a substance classified in Schedule V.

(b) Subject to Subsections (4), (5), and (6). a second or subsequent conviction under:

(i) Subsection (3)(a)(i) is a first degree felony;

(ii) Subsection (3)(a)(ii) is a second degree felony; or

(iii) Subsection (3)(a)(iii) is a third degree felony.

(4)

(a) Except as provided under Subsection (4)(b) and subject to Subsection (6), the court shall impose an indeterminate prison term for an actor who has been convicted of a violation of this section that is a first degree felony or a second degree felony under Subsection (3)(a) or (3)(b) if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation of Subsection (2), the actor intentionally or knowingly:

(i) used, drew, or exhibited a dangerous weapon that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

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- 11144 (ii) used a firearm or had a firearm readily accessible for immediate use; or
- 11145 (iii) distributed a firearm or possessed a firearm with intent to distribute the firearm.
- 11146 (b) Subject to Subsections (5) and (6), a court may suspend the indeterminate prison term for an actor convicted under Subsection (4)(a) if the court:
 - 11148 (i) details on the record the reasons why it is in the interests of justice to not impose the indeterminate prison term;
 - 11150 (ii) makes a finding on the record that the actor does not pose a significant safety risk to the public; and
 - 11152 (iii) orders the person to complete the terms and conditions of supervised probation provided by the Division of Adult Probation and Parole created in Section 64-14-202.
- 11155 (5)
 - 11157 (a) A court shall impose a mandatory jail sentence of 360 days in jail, and may not suspend any portion of the jail sentence or grant early release, if:
 - 11160 (i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of an offense under this section;
 - 11162 (ii) (A) the violation is the actor's second or subsequent conviction for any level of offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; or
 - 11166 (B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; and
 - 11168 (iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
 - 11168 (b)
 - 11173 (i) Except as provided in Subsection (5)(b)(ii), an actor who is subject to a mandatory jail sentence under Subsection (5)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (5)(a).
 - 11173 (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (5)(a).

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(6) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.

11181 (7)

(a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

11186 (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11189 (8)

(a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11192 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11194 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11195 (9) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.

11198 (10) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11200 (a) a screening as defined in Section 41-6a-501;

11201 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (10)(a) indicates that an assessment is appropriate; and

11203 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (10)(b).

11262 Section 186. Section **186** is enacted to read:

11263 **76-18-210. Unlawfully possessing a controlled substance or counterfeit substance with intent to distribute.**

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11208 (1)

11209 (a) As used in this section:

11210 (i) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

11211 (ii) "Firearm" means the same as that term is defined in Section 76-11-101.

11213 (iii) "Readily accessible for immediate use" means the same as that term is defined in Section 11215 76-11-201.

11216 (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11217 (2) Except as authorized by this chapter or Title 58, Chapter 37, Controlled Substances, and under 11218 circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl 11219 or a fentanyl-related substance, an actor commits unlawfully possessing a controlled substance or 11220 counterfeit substance with intent to distribute if the actor knowingly and intentionally possesses a 11221 controlled substance or counterfeit substance with the intent to distribute.

11222 (3)

11223 (a) Except as provided in Subsection (3)(b) and subject to Sections (4), (5), and (6), a violation of 11224 Subsection (2) is:

11225 (i) a second degree felony if the controlled substance or counterfeit substance is:

11226 (A) a substance or a counterfeit of a substance classified in Schedule I or II, not including marijuana;

11227 (B) a controlled substance analog; or

11228 (C) gammahydroxybutyric acid as listed in Schedule III;

11229 (ii) a third degree felony if the controlled substance or counterfeit substance is:

11230 (A) a substance or a counterfeit of a substance classified in Schedule III or IV;

11231 (B) marijuana; or

11232 (C) a substance listed in Section 58-37-109; or

11233 (iii) a class A misdemeanor if the controlled substance or counterfeit substance is a substance or 11234 counterfeit substance of a substance classified in Schedule V.

11235 (b) Subject to Subsections (4), (5), and (6), a second or subsequent conviction under:

11236 (i) Subsection (3)(a)(i) is a first degree felony;

11237 (ii) Subsection (3)(a)(ii) is a second degree felony; or

11238 (iii) Subsection (3)(a)(iii) is a third degree felony.

11239 (4)

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(a) Except as provided under Subsection (4)(b) and subject to Subsection (6), the court shall impose an indeterminate prison term for an actor who has been convicted of a violation of this section that is a first degree felony or a second degree felony under Subsection (3)(a) or (3)(b) if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation of Subsection (2), the actor intentionally or knowingly:

(i) used, drew, or exhibited a dangerous weapon that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(ii) used a firearm or had a firearm readily accessible for immediate use; or

(iii) distributed a firearm or possessed a firearm with intent to distribute the firearm.

(b) Subject to Subsections (5) and (6), a court may suspend the indeterminate prison term for an actor convicted under Subsection (4)(a) if the court:

(i) details on the record the reasons why it is in the interests of justice to not impose the indeterminate prison term;

(ii) makes a finding on the record that the actor does not pose a significant safety risk to the public; and

(iii) orders the person to complete the terms and conditions of supervised probation provided by the Division of Adult Probation and Parole created in Section 64-14-202.

(5)

(a) A court shall impose a mandatory jail sentence of 360 days in jail, and may not suspend any portion of the jail sentence or grant early release, if:

(i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of an offense under this section;

(ii)

(A) the violation is the actor's second or subsequent conviction for any level of offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; or

(B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under this section, Section 76-18-209, 76-18-210, or 76-18-211; and

(iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.

(b)

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(i) Except as provided in Subsection (5)(b)(ii), an actor who is subject to a mandatory jail sentence under Subsection (5)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (5)(a).

11275 (ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (5)(a).

11279 (6) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.

11283 (7)

(a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

11288 (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11291 (8)

(a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11294 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11296 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11297 (9) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.

11300 (10) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11302 (a) a screening as defined in Section 41-6a-501;

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11303 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (10)(a) indicates that an assessment is appropriate; and

11305 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (10)(b).

11364 Section 187. Section **187** is enacted to read:

76-18-211. Unlawfully engaging in a continuing criminal enterprise involving drugs.

11310 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11312 (2) Except as authorized under this chapter or Title 58, Chapter 37, Controlled Substances, and under circumstances not amounting to an offense described in Section 76-18-220, trafficking of fentanyl or a fentanyl-related substance, an actor commits unlawfully engaging in a continuing criminal enterprise involving drugs if the actor knowingly and intentionally engages in a continuing criminal enterprise where:

11317 (a) the actor participates, directs, or engages in conduct that results in a felony violation of an offense in:

11319 (i) this part;

11320 (ii) Part 3, Offenses Concerning Drug Paraphernalia;

11321 (iii) Part 4, Offenses Concerning Imitation Controlled Substances;

11322 (iv) Part 5, Clandestine Drug Labs;

11323 (v) Title 58, Chapter 37, Controlled Substances; or

11324 (vi) Title 58, Chapter 37c, Controlled Substance Precursors; and

11325 (b) the violation described in Subsection (2)(a) is part of a continuing series of two or more violations of an offense described in Subsection (2)(a)(i) through (vi), on separate occasions that are undertaken in concert with five or more persons, with respect to whom the actor occupies a position of organizer, supervisor, or any other position of management.

11330 (3)

11332 (a) Subject to Subsections (3)(b) and (4), a violation of Subsection (2) is a first degree felony punishable by imprisonment for an indeterminate term of not less than:

11333 (i) seven years and which may be for life; or

11333 (ii) 15 years and which may be for life, if the trier of fact determines that the actor knew, or reasonably should have known, that any subordinate described in Subsection (2)(b) was under 18 years old.

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11336 (b)

- (i) Except as provided in Subsection (3)(b)(ii), imposition or execution of the sentence described in Subsection (3)(a) may not be suspended, and the actor is not eligible for probation.

11339 (ii) Subsection (3)(a)(ii) does not apply to an actor who, at the time of the offense, was under 18 years old.

11341 (4) Notwithstanding any other provision of this section, a violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.

11345 (5)

- (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (b) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11353 (6)

- (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
- (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
- (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11356 (7) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.

11362 (8) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

- (a) a screening as defined in Section 41-6a-501;
- (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (8)(a) indicates that an assessment is appropriate; and

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11367 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (8)(b).

11426 Section 188. Section **188** is enacted to read:

11427 **76-18-212. Unlawfully allowing possession, use, or distribution of a controlled substance on the premises.**

11372 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11374 (2) An actor commits unlawfully allowing possession, use, or distribution of a controlled substance on the premises if the actor:

11376 (a) is an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place; and

11378 (b) knowingly and intentionally permits a person to occupy the building, room, tenement, vehicle, boat, aircraft, or other place while the person is unlawfully manufacturing, possessing, using, or distributing a controlled substance at or in the building, room, tenement, vehicle, boat, aircraft, or other place.

11382 (3)

11383 (a) Subject to Subsection (3)(b), a violation of Subsection (2) is:

11384 (i) a class B misdemeanor on a first conviction;

11385 (ii) a class A misdemeanor on a second conviction; or

11386 (iii) a third degree felony on a third or subsequent conviction.

11390 (4)

11395 (b) Upon an actor's conviction of a violation of this section, if the actor has previously been convicted of a violation of Section 76-18-208, 76-18-209, 76-18-210, or 76-18-211, the court shall sentence the actor to a one degree greater penalty than provided in Subsection (3)(a).

11397 (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

11399 (b) A previous conviction used for a penalty enhancement under this section may only be a conviction that:

11397 (i) is from a separate criminal episode than the current conviction under this section; and

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11401 (ii) has not already been used under a separate penalty enhancement provision to enhance the conviction under this section.

11401 (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11404 (5)

11407 (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11409 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11409 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11410 (6) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.

11413 (7) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11415 (a) a screening as defined in Section 41-6a-501;

11416 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a) indicates that an assessment is appropriate; and

11418 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

11477 Section 189. Section **189** is enacted to read:

11478 **76-18-213. Unlawful possession of an altered or forged prescription or order for a controlled substance.**

11423 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11425 (2) An actor commits unlawful possession of an altered or forged prescription or order for a controlled substance if the actor knowingly and intentionally possesses an altered or forged prescription or written order for a controlled substance.

11428 (3)

11428 (a) Subject to Subsection (3)(b), a violation of Subsection (2) is:

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- 11429 (i) a class B misdemeanor on a first conviction;
- 11430 (ii) a class A misdemeanor on a second conviction; or
- 11431 (iii) a third degree felony on a third or subsequent conviction.
- 11432 (b) Upon an actor's conviction of a violation of this section, if the actor has previously been convicted of a violation of Section 76-18-208, 76-18-209, 76-18-210, or 76-18-211, the court shall sentence the actor to a one degree greater penalty than provided in Subsection (3)(a).
- 11436 (4)
 - 11441 (a) For purposes of a penalty enhancement, a plea of guilty or no contest to a violation or attempted violation of this section or a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
 - 11441 (b) A previous conviction used for a penalty enhancement under this section may only be a conviction that:
 - 11443 (i) is from a separate criminal episode than the current conviction under this section; and
 - 11445 (ii) has not already been used under a separate penalty enhancement provision to enhance the conviction under this section.
 - 11447 (c) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.
- 11450 (5)
 - 11453 (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.
 - 11453 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
 - 11455 (c) Defenses and exemptions in Section 76-18-203 apply to this section.
- 11456 (6) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each actor convicted of violating this section.
- 11459 (7) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

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11461 (a) a screening as defined in Section 41-6a-501;

11462 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a)
indicates that an assessment is appropriate; and

11464 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as
indicated by an assessment described in Subsection (7)(b).

11523 Section 190. Section **190** is enacted to read:

11524 **76-18-214. Unlawful use of a license number in the course of manufacturing or distributing a controlled substance.**

11469 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11471 (2) An actor commits unlawful use of a license number in the course of manufacturing or distributing a controlled substance if the actor knowingly and intentionally uses, in the course of the manufacture or distribution of a controlled substance, a license number that is fictitious, revoked, suspended, or issued to another person.

11475 (3) A violation of Subsection (2) is:

11476 (a) a class A misdemeanor on a first or second conviction; or

11477 (b) a third degree felony on a third or subsequent conviction.

11478 (4)

11479 (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11481 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11483 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11484 (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11487 (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11489 (a) a screening as defined in Section 41-6a-501;

11490 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a)
indicates that an assessment is appropriate; and

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11492 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

11551 Section 191. Section **191** is enacted to read:

11552 **76-18-215. Unlawful misrepresentation as an authorized person to obtain a controlled substance.**

11497 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11499 (2) An actor commits unlawful misrepresentation as an authorized person to obtain a controlled substance if the actor knowingly and intentionally, for the purpose of obtaining a controlled substance, assumes the title of, or represents to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

11504 (3) A violation of Subsection (2) is:

11505 (a) a class A misdemeanor on a first or second conviction; or

11506 (b) a third degree felony on a third or subsequent conviction.

11507 (4)

11510 (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11512 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11513 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11516 (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11518 (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11519 (a) a screening as defined in Section 41-6a-501;

11521 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and

11580 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

Section 192. Section **192** is enacted to read:

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76-18-216. Unlawful conduct to obtain a controlled substance.

(1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

(2) An actor commits unlawful conduct to obtain a controlled substance if the actor knowingly and intentionally acquires, obtains possession of, procures or attempts to procure the administration of, or obtains a prescription for, a controlled substance by:

(a) misrepresentation;

(b) failure to disclose receiving a controlled substance from another source;

(c) fraud;

(d) forgery;

(e) deception;

(f) subterfuge;

(g) alteration of a prescription or written order for a controlled substance; or

(h) use of a false name or address.

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

(a) a class A misdemeanor on a first or second conviction; or

(b) a third degree felony on a third or subsequent conviction.

(4)

(a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

(b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(c) Defenses and exemptions in Section 76-18-203 apply to this section.

(d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

(5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and

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11556 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

11615 Section 193. Section **193** is enacted to read:

11616 **76-18-217. Unlawfully prescribing or dispensing a controlled substance to a person known to be using unlawful means.**

11561 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11563 (2) An actor commits unlawfully prescribing or dispensing a controlled substance to a person known to be using unlawful means if the actor knowingly and intentionally prescribes or dispenses to a person known to be attempting to acquire or obtain possession of, or to procure the administration of, a controlled substance by:

11567 (a) misrepresentation;

11568 (b) failure by the person to disclose receiving a controlled substance from another source;

11569 (c) fraud;

11570 (d) forgery;

11571 (e) deception;

11572 (f) subterfuge;

11573 (g) alteration of a prescription or written order for a controlled substance; or

11574 (h) the use of a false name or address.

11575 (3) A violation of Subsection (2) is:

11576 (a) a class A misdemeanor on a first or second conviction; or

11577 (b) a third degree felony on a third or subsequent conviction.

11578 (4)

11581 (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11583 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11584 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11584 (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

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11587 (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11589 (a) a screening as defined in Section 41-6a-501;

11590 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and

11592 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

11651 Section 194. Section **194** is enacted to read:

11652 **76-18-218. Unlawfully making, forging, altering, or uttering a prescription or a written order.**

11597 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11599 (2) An actor commits unlawfully making, forging, altering, or uttering a prescription or a written order if the actor knowingly and intentionally:

11601 (a) makes a false or forged prescription or written order for a controlled substance;

11602 (b) utters a false or forged prescription or written order for a controlled substance; or

11603 (c) alters a prescription or written order issued or written under the terms of this chapter or Title 58, Chapter 37, Controlled Substances.

11605 (3) A violation of Subsection (2) is:

11606 (a) a class A misdemeanor on a first or second conviction; or

11607 (b) a third degree felony on a third or subsequent conviction.

11608 (4)

11608 (a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11611 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11613 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11614 (d) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

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(5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11619 (a) a screening as defined in Section 41-6a-501;

11620 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and

11622 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

11681 Section 195. Section **195** is enacted to read:

76-18-219. Unlawful materials to create a counterfeit controlled substance.

11627 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section

11629 (2) An actor commits unlawful materials to create a counterfeit controlled substance if the actor knowingly and intentionally makes, distributes, or possesses a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce:

11632 (a) the trademark, trade name, or other identifying mark, imprint, or device of another upon any drug, container, or labeling, so as to render a drug a counterfeit controlled substance; or

11635 (b) any likeness of a trademark, trade name, or other identifying mark, imprint, or device of another upon any drug, container, or labeling, so as to render a drug a counterfeit controlled substance.

11638 (3) A violation of Subsection (2) is a third degree felony.

11639 (4)

(a) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part or Title 58, Chapter 37, Controlled Substances.

11642 (b) A penalty imposed for a violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

11644 (c) Defenses and exemptions in Section 76-18-203 apply to this section.

11645 (5) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

11647 (a) a screening as defined in Section 41-6a-501;

11648 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; and

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(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

11709 Section 196. Section **76-18-220** is renumbered and amended to read:

11711 **[58-37-8.1] 76-18-220. Trafficking of fentanyl or a fentanyl-related substance.**

11656 (1)

11657 (a) As used in this section:

11659 [(a)] (i) "Fentanyl-related substance" means a derivative or analog of fentanyl including:

11660 [(i)] (A) carfentanil;

11661 [(ii)] (B) sufentanil;

11662 [(iii)] (C) alfentanil; or

11663 [(iv)] (D) a fentanyl-related substance that is a controlled substance as described in Section
[58-37-3] 58-37-107.

11664 [(b)] (ii) "Trafficking amount of fentanyl or a fentanyl-related substance" means 100 grams or a
more of any composition or mixture, including pills, that contains any quantity of fentanyl or a
fentanyl-related substance.

11665 (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11666 (2) [A person] An actor commits trafficking of fentanyl or a fentanyl-related substance if the
[person] actor intentionally:

11667 (a) produces, manufactures, or dispenses a trafficking amount of fentanyl or a fentanyl-related
substance;

11668 (b) distributes a trafficking amount of fentanyl or a fentanyl-related substance;

11669 (c) agrees, consents, offers, or arranges to distribute a trafficking amount of fentanyl or a fentanyl-
related substance; or

11670 (d) possesses a trafficking amount of fentanyl or a fentanyl-related substance with the intent to
distribute the fentanyl or fentanyl-related substance.

11671 (3) A violation of Subsection (2) is a first degree felony.

11672 (4) Except as provided in Subsection (5) or (6), a court may not grant probation, suspend the
execution or imposition of the sentence, order hospitalization, or enter a judgment for a lower
category of offense under Section 76-3-402, if the effect of which would in any way shorten the
[person's] actor's required indeterminate prison sentence, when:

11673 (a) sentencing [a person] an actor for a violation described in Subsection (3);

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- 11684 (b) sentencing [a person] an actor for a conviction of an attempt to commit trafficking of fentanyl or a fentanyl-related substance in accordance with Section 76-4-102; or
- 11686 (c) sentencing [a person] an actor who has had the first degree felony classified in Subsection (3) reduced one degree by a prosecuting attorney in accordance with Section 77-2-2.3.
- 11689 (5) Except as provided by Subsection (7), a court may suspend the execution or imposition of a prison sentence under Subsection (4) if the court:
 - 11691 (a) makes a finding on the record that:
 - 11692 (i) details why it is in the interests of justice not to execute or impose the prison sentence; and
 - 11694 (ii) the actor does not pose a significant safety risk to the general public; and
 - 11695 (b) orders the actor to complete the terms and conditions of probation that is supervised by the Division of Adult Probation and Parole.
- 11697 (6) Subsection (4) does not apply if the sentencing court finds that the [person] actor:
 - 11698 (a) was under 18 years old at the time of the offense; and
 - 11699 (b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.
- 11701 (7)
 - 11705 (a) If a court seeks to suspend the execution or imposition of a prison sentence under Subsection (5), the court shall impose the mandatory jail sentence described in Subsection (7)(b), and may not suspend any portion of the jail sentence or grant early release, if:
 - 11707 (i) the court suspends the imposition of a prison sentence for a conviction under Subsection (2);
 - 11707 (ii) (A) the violation is the [person's] actor's second or subsequent conviction for an offense under Subsection (2); or
 - 11709 (B) the [person] actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under Subsection (2); and
 - 11712 (iii) the [person] actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
 - 11714 (b) The mandatory jail sentence referred to in Subsection (7)(a) is 360 days in jail.
 - 11715 (c)

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- (i) Except as provided in Subsection (7)(c)(ii), [a person] an actor who is subject to a mandatory jail sentence under Subsection (7)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the [person] actor has served the entire jail sentence described in Subsection (7)(b).
- 11720 (ii) [A person] An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the [person's] actor's jail sentence described in Subsection (7)(b).
- 11724 (8) A previous conviction used for a penalty enhancement under this section includes a conviction for an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of this section.

11784 Section 197. Section **76-18-221** is renumbered and amended to read:

11786 **[58-37-8.2] 76-18-221. Unlawful failure to report a practitioner's diversion of drugs.**

11731 (1)

- (a) As used in this section:

11732 [(a)] (i) "Diversion" means a practitioner's transfer of a significant amount of drugs to another individual for an unlawful purpose.

11734 [(b)] (ii) "Drug" means a Schedule II or Schedule III controlled substance, as defined in Section [58-37-4] 58-37-108, that is an opiate.

11736 [(e)] (iii) "HIPAA" means the same as that term is defined in Section 26B-3-126.

11737 [(d)] (iv) "Opiate" means the same as that term is defined in Section [58-37-2] 58-37-101.

11739 [(e)] (v) "Practitioner" means an individual:

11740 [(i)] (A) licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

11743 [(ii)] (B) employed by a person who is licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice or standard operations.

11746 [(f)] (vi) "Significant amount" means an aggregate amount equal to, or more than, 500 morphine milligram equivalents calculated in accordance with guidelines developed by the Centers for Disease Control and Prevention.

11749 (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

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(2) [An individual is guilty of a class B misdemeanor if the individual] An actor commits unlawful failure to report a practitioner's diversion of drugs if the actor:

11753 (a) knows that a practitioner is involved in diversion; and

11754 (b) knowingly fails to report the diversion described in Subsection (2)(a) to a peace officer or law enforcement agency.

11756 (3) A violation of Subsection (2) is a class B misdemeanor.

11757 [(3)] (4) Subsection (2) does not apply to the extent that [an individual] an actor is prohibited from reporting by 42 C.F.R. Part 2 or HIPAA.

11816 Section 198. Section **76-18-222** is renumbered and amended to read:

11818 **[58-37-8.3] 76-18-222. Possession, sale, or use of an adulterant or synthetic urine.**

11763 (1)

11764 (a) As used in this section, "adulterant" means a substance that may be added to human urine or another human bodily fluid to change, dilute, or interfere with the composition, chemical properties, physical appearance, or physical properties of the urine or other bodily fluid.

11765 (b) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-201 apply to this section.

11766 (2) Under circumstances not amounting to a violation of Section 76-8-510.5, Tampering with evidence, [a person] an actor commits possession, sale, or use of an adulterant or synthetic urine if the [person] actor:

11772 (a) distributes, possesses, or sells synthetic urine;

11773 (b) distributes or sells an adulterant with:

11774 (i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening test; or

11776 (ii) knowledge that the recipient of the adulterant intends to use the adulterant to defeat or defraud an alcohol or drug screening test;

11778 (c) possesses an adulterant with intent to use the adulterant to defeat or defraud an alcohol or drug screening test; or

11780 (d) intentionally uses:

11781 (i) an adulterant to defeat or defraud an alcohol or drug screening test;

11782 (ii) the [person's] actor's urine or bodily fluid to defeat or defraud an alcohol or drug screening test if the urine or bodily fluid was expelled or withdrawn before the time at which the urine or bodily fluid is collected for the test; or

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(iii) the urine or bodily fluid of another [person] individual to defeat or defraud an alcohol or drug screening test.

11787 (3) A violation of [this section] Subsection (2) is an infraction.

11788 (4) [A person] An actor does not commit a violation of Subsection (2) if the [person] actor is engaging in conduct described in this section for the sole purpose of education or medical or scientific research.

11791 (5) This section does not apply to persons currently under:

11792 (a) court-ordered supervision; or

11793 (b) the supervision of the Board of Pardons and Parole.

11794 (6) An entity that collects specimens for the purpose of testing and screening, and reports the results back to an employer, shall report to the employer and the Department of Public Safety if a report is received that indicates that adulterated or synthetic urine was submitted for an alcohol or drug screening test.

11855 Section 199. Section **76-18-301** is renumbered and amended to read:

Part 3. Offenses Concerning Drug Paraphernalia

[58-37a-3] 76-18-301. Definitions.

As used in this part:

11803 (1)

(a) [As used in this chapter, "drug"] "Drug paraphernalia" means any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, inject, ingest, inhale, or to otherwise introduce a controlled substance into the human body in violation of [Chapter 37, Utah Controlled Substances Act] Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances.

11810 [(2)] (b) "Drug paraphernalia" includes:

11811 [(a)] (i) [kits] a kit used, or intended for use, in planting, propagating, cultivating, growing, or harvesting any species of plant [which] that is a controlled substance or from which a controlled substance can be derived;

11814 [(b)] (ii) [kits] a kit used, or intended for use, in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

11816

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[{e}] (iii) an isomerization [devices] device used, or intended for use, to increase the potency of any species of plant [which] that is a controlled substance;

11818 [d] (iv) except as provided in Subsection [(3)] (1)(c), testing equipment used, or intended for use, to identify or to analyze the strength, effectiveness, or purity of a controlled substance;

11821 [{e}] (v) [seales and balances] a scale or balance used, or intended for use, in weighing or measuring a controlled substance;

11823 [{f}] (vi) [diluents and adulterants] a diluent or adulterant, such as quinine hydrochloride, mannitol, mannited, dextrose and lactose, used, or intended for use, to cut a controlled substance;

11826 [{g}] (vii) [separation gins and sifters] a separation gin or sifter used, or intended for use, to remove twigs, seeds, or other impurities from marihuana;

11828 [{h}] (viii) [blenders, bowls, containers, spoons and mixing devices] a blender, bowl, container, spoon, or mixing device used, or intended for use, to compound a controlled substance;

11831 [{i}] (ix) [eapsules, balloons, envelopes, and other containers] a capsule, balloon, envelope, or other container used, or intended for use, to package a small [quantities] quantity of a controlled substance;

11834 [{j}] (x) [eontainers and other objects] a container or other object used, or intended for use, to store or conceal a controlled substance;

11836 [{k}] (xi) [hypodermic syringes, needles, and other objects] a hypodermic syringe, needle, or other object used, or intended for use, to parenterally inject a controlled substance into the human body, except as provided in Section [58-37a-5] 76-18-304, 76-18-305, or 76-18-306; and

11840 [{l}] (xii) [objeets] an object used, or intended for use, to ingest, inhale, or otherwise introduce a controlled substance into the human body, including[but not limited to]:

11842 [{i}] (A) a metal, wooden, acrylic, glass, stone, plastic, or ceramic [pipes] pipe, with or without [sereens] a screen, permanent [sereens] screen, hashish [heads] head, or punctured metal [bowls] bowl;

11845 [{i}] (B) a water [pipes] pipe;

11846 [{i}] (C) a carburetion [tubes and deviees] tube or device;

11847 [{i}] (D) a smoking [and] or carburetion [masks] mask;

11848 [{i}] (E) [roach elips: meaning objeets] an object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand, sometimes referred to as a "roach clip";

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11851 [({vi})] (F) a miniature cocaine [spoons and cocaine vials] spoon or cocaine vial;
11852 [({vii})] (G) a chamber [pipes] pipe;
11853 [({viii})] (H) a carburetor [pipes] pipe;
11854 [({ix})] (I) an electric [pipes] pipe;
11855 [({x})] (J) an air-driven [pipes] pipe;
11856 [({xi})] (K) chillum[ss] a chillum;
11857 [({xii})] (L) [bongs] a bong; and
11858 [({xiii})] (M) an ice [pipes or chillers] pipe or chiller.

11859 [({3})] (c) "Drug paraphernalia" does not include a testing product or equipment, including a fentanyl test strip, used or intended for use to determine whether a substance contains:

11862 [({a})] (i) a controlled substance that can cause physical harm or death; or
11863 [({b})] (ii) a chemical or compound that can cause physical harm or death.

11864 (2) "Minor" means an individual who is under 18 years old.

11922 Section 200. Section **76-18-302** is renumbered and amended to read:

11924 **[58-37a-4] 76-18-302. Considerations in determining whether an object is drug paraphernalia.**

In determining whether an object is drug paraphernalia, the trier of fact, in addition to all other logically relevant factors, should consider:

11871 (1) statements by an owner or by anyone in control of the object concerning [its] the object's use;
11873 (2) prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to a controlled substance;
11875 (3) the proximity of the object, in time and space, to a direct violation of this [e]chapter] part;
11876 (4) the proximity of the object to a controlled substance;
11877 (5) the existence of any residue of a controlled substance on the object;
11878 (6) instructions, whether oral or written, provided with the object concerning [its] the object's use;
11880 (7) descriptive materials accompanying the object [which] that explain or depict [its] the object's use;
11882 (8) national and local advertising concerning [its] the object's use;
11883 (9) the manner in which the object is displayed for sale;
11884 (10) whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

11887

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- (11) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- 11889 (12) the existence and scope of legitimate uses of the object in the community;
- 11890 (13) whether the object is subject to Section [58-37a-5] 76-18-304, 76-18-305, or 76-18-306; and
- 11892 (14) expert testimony concerning [its] the object's use.

11950 Section 201. Section **76-18-303** is renumbered and amended to read:

11952 **[58-37a-6] 76-18-303. Seizure -- Forfeiture -- Property rights -- Bystander defense.**

- 11897 (1) Drug paraphernalia is subject to seizure and forfeiture in accordance with the procedures and substantive protections of[-] :
 - 11899 (a) Title 77, Chapter 11a, Seizure of Property and Contraband[-] ; and
 - 11900 (b) Title 77, Chapter 11b, Forfeiture of Seized Property.
- 11901 (2) It is an affirmative defense to an allegation of the commission of an offense under this part if the actor or bystander:
 - 11903 (a) reasonably believes that the actor or another individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;
 - 11906 (b) reports, or assists an individual who reports, in good faith, the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the actor is the subject of a report made under this section;
 - 11910 (c) provides, in the report described in Subsection (2)(b), a functional description of the actual location of the overdose event that facilitates responding to the individual experiencing the overdose event;
 - 11913 (d) remains at the location of the individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the individual experiencing an overdose event is located until a responding law enforcement officer arrives;
 - 11917 (e) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the individual experiencing the overdose event and any substances the individual may have injected, inhaled, or otherwise introduced into the individual's body; and

11921

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(f) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

11980 Section 202. Section **76-18-304** is renumbered and amended to read:

11982 **[58-37a-5] 76-18-304. Unlawful use of drug paraphernalia.**

11926 [(1)]

(a)]

11927 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.

11928 (2) [It is unlawful for a person to use, or to possess with intent to use,] An actor commits unlawful use of drug paraphernalia if the actor uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body in violation of this [chapter] part.

11934 [(b)] (3) [A person who violates Subsection (1)(a) is guilty of] A violation of Subsection (2) is a class B misdemeanor.

11936 [(2)]

(a) It is unlawful for a person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of this act.]

11942 [(b) A person who violates Subsection (2)(a) is guilty of a class A misdemeanor.]

11943 [(3) A person 18 years old or older who delivers drug paraphernalia to a person younger than 18 years old and who is three years or more younger than the person making the delivery is guilty of a third degree felony.]

11946 [(4)]

(a) It is unlawful for a person to place in this state in a newspaper, magazine, handbill, or other publication an advertisement, knowing that the purpose of the advertisement is to promote the sale of drug paraphernalia.]

11949 [(b) A person who violates Subsection (4)(a) is guilty of a class B misdemeanor.]

11950 [(5)]

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(a) A person may not be charged with distribution of hypodermic syringes as drug paraphernalia if at the time of sale or distribution the syringes are in a sealed sterile package and are for a legitimate medical purpose, including:]

[(i) injection of prescription medications as prescribed by a practitioner; or]

[(ii) the prevention of disease transmission.]

[**(b) A person**]

(4) An actor may not be charged with possession of a hypodermic syringe as drug paraphernalia if the syringe is unused and is in a sealed sterile package.

[~~(6)~~ (5) In a prosecution under [Subsection (1)] this section for possession of a hypodermic syringe or needle, the prosecutor or the court may dismiss the charge if the [person] actor establishes, by a preponderance of the evidence, that:

(a) at the time of the offense:

(i) the hypodermic syringe or needle was stored in a sealed puncture-resistant container, such as a medical sharps disposal container, that was clearly marked on the outside of the container with a warning that identified the container as containing medical waste; and

(ii) the [person] actor was enrolled or participating in a syringe exchange program under Section 26B-7-117; and

(b) after the day of the offense, but before the day on which the case is adjudicated, the [person] actor demonstrated an intent to engage with substance abuse treatment by commencing, continuing, or completing a substance use disorder treatment program.

[~~(7)~~ (6) [A person] An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this [chapter] part.

(7) If a minor is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a) indicates that an assessment is appropriate; or

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

Section 203. Section **203** is enacted to read:

76-18-305. Unlawful delivery of drug paraphernalia.

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11983 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.

11984 (2) An actor commits unlawful delivery of drug paraphernalia if the actor delivers, possesses with intent to deliver, or manufactures with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of this part.

11990 (3)

11992 (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

11993 (b) A violation of Subsection (2) is a third degree felony if the actor:

11994 (i) is 18 years old or older;

11994 (ii) delivers drug paraphernalia to a minor; and

11995 (iii) is older than the minor by three or more years.

11996 (4) An actor may not be charged with distribution of hypodermic syringes as drug paraphernalia if at the time of sale or distribution, the syringes are:

11998 (a) in a sealed sterile package; and

11999 (b) for a legitimate medical purpose, including:

12000 (i) injection of prescription medications as prescribed by a practitioner; or

12001 (ii) the prevention of disease transmission.

12002 (5) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this part.

12004 (6) If a minor is found by a court to have violated this section, the court may order the minor to complete:

12006 (a) a screening as defined in Section 41-6a-501;

12007 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (6)(a) indicates that an assessment is appropriate; or

12009 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (6)(b).

12068 Section 204. Section **204** is enacted to read:

12069 **76-18-306. Unlawful advertisement of drug paraphernalia.**

12013 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.

12014 (2) An actor commits unlawful advertisement of drug paraphernalia if the actor:

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12015 (a) places in this state in a newspaper, magazine, handbill, or other publication an advertisement; and
12017 (b) knows that the purpose of the advertisement described in Subsection (2)(a) is to promote the sale of
12019 drug paraphernalia.
12020 (3) A violation of Subsection (2) is a class B misdemeanor.
12022 (4) An actor may be charged and sentenced for a violation of this section, notwithstanding a charge and
12024 sentence for a violation of any other section of this part.
12025 (5) If a minor is found by a court to have violated this section, the court may order the minor to
12027 complete:
12029 (a) a screening as defined in Section 41-6a-501;
12031 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a)
12033 indicates that an assessment is appropriate; or
12035 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as
12037 indicated by an assessment described in Subsection (5)(b).

12039 Section 205. Section **76-18-401** is renumbered and amended to read:

Part 4. Offenses Concerning Imitation Controlled Substances

[58-37b-2] 76-18-401. Definitions.

As used in this [echapter] part:

12041 (1) "Controlled substance" has the same meaning as provided in Section **[58-37-2] 58-37-101**.
12043 (2) "Distribute" means the actual, constructive, or attempted sale, transfer, delivery, or dispensing to
12045 another of an imitation controlled substance.
12047 (3)
12049 (a) "Imitation controlled substance" means a substance designed or packaged to substantially resemble
12051 any legally or illegally manufactured controlled substance[, but that is not:].
12053 [(a)] (b) "Imitation controlled substance" does not include:
12055 (i) a controlled substance; or
12057 [(b)] (ii) a substance represented to be any legally or illegally manufactured controlled substance under
12059 Subsection **[58-37-2(1)(i)(ii)] 58-37-101(1)(h)(ii)**.
12061 (4) "Manufacture" means the production, preparation, compounding, processing, encapsulating,
12063 tableting, packaging or repackaging, labeling or relabeling, of an imitation controlled substance.
12065 (5) "Minor" means an individual who is under 18 years old.

12067 Section 206. Section **76-18-402** is renumbered and amended to read:

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12107 [58-37b-8] **76-18-402. Exemption of certain persons -- Bystander defense.**

12052 (1) No civil or criminal liability shall be imposed by virtue of this [aet-] part on:

12053 (a) any person registered under [the] Title 58, Chapter 37, Controlled Substances[-Aet] , who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or[-on any]

12057 (b) a law enforcement officer acting in the course and legitimate scope of [that] the law enforcement officer's employment.

12059 (2) It is an affirmative defense to an allegation of the commission of an offense under this part if the actor or bystander:

12061 (a) reasonably believes that the actor or another individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

12064 (b) reports, or assists an individual who reports, in good faith, the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the actor is the subject of a report made under this section;

12068 (c) provides, in the report described in Subsection (2)(b), a functional description of the actual location of the overdose event that facilitates responding to the individual experiencing the overdose event;

12071 (d) remains at the location of the individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the individual experiencing an overdose event is located until a responding law enforcement officer arrives;

12075 (e) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the individual experiencing the overdose event and any substances the individual may have injected, inhaled, or otherwise introduced into the individual's body; and

12079 (f) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

12138 Section 207. Section **76-18-403** is renumbered and amended to read:

12140 [58-37b-6] **76-18-403. Unlawful use of an imitation controlled substance.**

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12085 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.

12086 (2) ~~[— It is unlawful for any person to use, or to possess]~~ An actor commits unlawful use of an imitation controlled substance if the actor uses, or possesses with the intent to use, an imitation controlled substance. ~~[Any person who violates this section is guilty of]~~

12089 (3) A violation of Subsection (2) is a class C misdemeanor.

12090 (4) If a minor is found by a court to have violated this section, the court may order the minor to complete:

12092 (a) a screening as defined in Section 41-6a-501;

12093 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (4)(a) indicates that an assessment is appropriate; or

12095 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (4)(b).

12154 Section 208. Section **76-18-404** is renumbered and amended to read:

12156 **[58-37b-4] 76-18-404. Unlawful manufacture of an imitation controlled substance.**

12101 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.

12102 (2) ~~[— It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this section is guilty of a class A misdemeanor.]~~ An actor commits unlawful manufacture of an imitation controlled substance if the actor manufactures an imitation controlled substance.

12107 (3) Subject to Subsection (4), a violation of Subsection (2) is a class A misdemeanor.

12108 (4) A violation of this section is subject to the penalties and classifications under Section 76-18-204. Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.

12111 (5) If a minor is found by a court to have violated this section, the court may order the minor to complete:

12113 (a) a screening as defined in Section 41-6a-501;

12114 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; or

12116 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

12175 Section 209. Section **209** is enacted to read:

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12176 **76-18-405. Unlawful distribution or possession with intent to distribute an imitation controlled substance.**

12121 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.

12122 (2) An actor commits unlawful distribution or possession with intent to distribute an imitation controlled substance if the actor:

12124 (a) distributes an imitation controlled substance; or

12125 (b) possesses an imitation controlled substance with the intent to distribute the imitation controlled substance.

12127 (3) Subject to Subsection (4), a violation of Subsection (2) is a class A misdemeanor.

12128 (4) A violation of this section is subject to the penalties and classifications under Section 76-18-204, Enhanced penalties and sentencing for certain drug offenses, if the trier of fact finds the elements described under Section 76-18-204.

12131 (5) If a minor is found by a court to have violated this section, the court may order the minor to complete:

12133 (a) a screening as defined in Section 41-6a-501;

12134 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (5)(a) indicates that an assessment is appropriate; or

12136 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (5)(b).

12195 Section 210. Section **76-18-406** is renumbered and amended to read:

12197 **[58-37b-7] 76-18-406. Unlawful advertisement of an imitation controlled substance.**

12142 (1) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.

12143 (2) [——It is unlawful for any person to place any] An actor commits unlawful advertisement of an imitation controlled substance if the actor:

12145 (a) places in a newspaper, magazine, handbill, or other publication, or [to post or distribute] posts or distributes in any public place, [any] an advertisement or solicitation; and

12148 (b) takes the action described in Subsection (2)(a) with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of an imitation controlled [substances] substance.

12151 (3) [Any person who violates this section is guilty of] A violation of Subsection (2) is a class A misdemeanor.

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12153 (4) If a minor is found by a court to have violated this section, the court may order the minor to complete:

12155 (a) a screening as defined in Section 41-6a-501;

12156 (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (4)(a) indicates that an assessment is appropriate; or

12158 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (4)(b).

12217 Section 211. Section **76-18-501** is renumbered and amended to read:

Part 5. Clandestine Drug Labs

[58-37d-3] 76-18-501. Definitions.

12164 (1) As used in this [echapter] part:

12165 (a)

(i) "Booby trap" means a concealed or camouflaged device designed to cause bodily injury when triggered by the action of a person making contact with the device.

12168 (ii) "Booby trap" includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices for the production of toxic fumes or gases.

12172 (b) "Clandestine laboratory operation" means the:

12173 (i) purchase or procurement of chemicals, supplies, equipment, or laboratory location for the illegal manufacture of specified controlled substances;

12175 (ii) transportation or arranging for the transportation of chemicals, supplies, or equipment for the illegal manufacture of specified controlled substances;

12177 (iii) setting up of equipment or supplies in preparation for the illegal manufacture of specified controlled substances;

12179 (iv) activity of compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing of a substance, including a controlled substance precursor, or the packaging, repackaging, labeling, or relabeling of a container holding a substance that is a product of any of these activities, when the substance is to be used for the illegal manufacture of specified controlled substances;

12185 (v) illegal manufacture of specified controlled substances; or

12186

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- (vi) distribution or disposal of chemicals, equipment, supplies, or products used in or produced by the illegal manufacture of specified controlled substances.
- 12188 (c) "Controlled substance precursor" means those chemicals designated in [Title 58, Chapter 37e, Utah Controlled Substance Precursor Act] Title 58, Chapter 37c, Controlled Substance Precursors, except those substances designated in [Subsections 58-37c-3(1)(kk) and (ll)] Subsection 58-37c-101(1)(kk) or (ll).
- 12192 (d) "Counterfeit opioid" means an opioid or container or labeling of an opioid that:
- 12193 (i)
 - (A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance [which] that falsely purports to be an opioid distributed by another manufacturer, distributor, or dispenser; and
 - 12199 (B) a reasonable person would believe to be an opioid distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under this Subsection (1)(d)(i) or the appearance of the container or labeling of the opioid; or
- 12203 (ii)
 - (A) is falsely represented to be any legally or illegally manufactured opioid; and
 - 12204 (B) a reasonable person would believe to be a legal or illegal opioid.
- 12205 (e) "Disposal" means the abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing of hazardous or dangerous material into or on property, land, or water so that the material may enter the environment, be emitted into the air, or discharged into any waters, including groundwater.
- 12209 (f) "Hazardous or dangerous material" means a substance that because of [its] the substance's quantity, concentration, physical characteristics, or chemical characteristics may cause or significantly contribute to an increase in mortality, an increase in serious illness, or may pose a substantial present or potential future hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed.
- 12215 (g) "Illegal manufacture of specified controlled substances" means in violation of [Title 58, Chapter 37, Utah Controlled Substances Act] Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances, the:

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- (i) compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing for the purpose of producing methamphetamine, other amphetamine compounds as listed in Schedule I of [the ~~Utah Controlled Substances Act~~] Title 58, Chapter 37, Controlled Substances, phencyclidine, narcotic analgesic analogs as listed in Schedule I of [the ~~Utah Controlled Substances Act~~] Title 58, Chapter 37, Controlled Substances, lysergic acid diethylamide, mescaline, tetrahydrocannabinol, or counterfeit opioid;
- (ii) conversion of cocaine or methamphetamine to their base forms; or
- (iii) extraction, concentration, or synthesis of tetrahydrocannabinol.

(h) "Opioid" means the same as that term is defined in Section 58-37f-303.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section [58-37-3-6] 58-37-403.

(2) Unless otherwise specified, the definitions in Section [58-37-2] 58-37-101 also apply to this [chapter] part.

Section 212. Section **76-18-502** is renumbered and amended to read:

[58-37d-2] 76-18-502. Purpose -- Coordination with other sections.

- (1) The clandestine production of methamphetamine, other amphetamines, phencyclidine, narcotic analgesic analogs, so-called "designer drugs," various hallucinogens, concentrated tetrahydrocannabinols, counterfeit opioids, cocaine and methamphetamine, base "crack" cocaine and methamphetamine "ice" respectively, has increased dramatically throughout the western states and Utah.
- (2) These highly technical illegal operations create substantial dangers to the general public and environment from fire, explosions, and the release of toxic chemicals.
- (3) By their very nature, these activities often involve a number of persons in a conspiratorial enterprise to bring together all necessary components for clandestine production, to thwart regulation and detection, and to distribute the final product.
- (4) Therefore, the Legislature enacts [the following ~~Utah Clandestine Laboratory Act~~] this part for prosecution of specific illegal laboratory operations.
- (5) With regard to the controlled substances specified herein, this [aet] part shall control, notwithstanding the prohibitions and penalties in [Title 58, Chapter 37, ~~Utah Controlled Substances Act~~] Part 2, Offenses Concerning Controlled Substances, and Title 58, Chapter 37, Controlled Substances.

Section 213. Section **76-18-503** is renumbered and amended to read:

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[58-37d-9] 76-18-503. Department of Public Safety enforcement authority.

12256 (1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section 53-10-103.

12258 (2)

12259 (a) The division has authority to enforce this [chapter] part.

12260 (b) To carry out [this purpose] enforcement of this part, the division may:

12261 (a) assist the law enforcement agencies of the state in enforcing this [chapter] part;

12262 (b) conduct investigations to enforce this [chapter] part;

12263 (c) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

12264 (d) work in cooperation with the Division of Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

12324 Section 76-18-504 is renumbered and amended to read:

[58-37d-7] 76-18-504. Seizure and forfeiture.

12326 Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real property used in furtherance of a clandestine laboratory operation are subject to seizure and forfeiture under the procedures and substantive protections of Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

12331 Section 76-18-505 is renumbered and amended to read:

[58-37d-6] 76-18-505. Legal inference of intent -- Illegal possession of a controlled substance precursor or clandestine laboratory equipment.

12333 The trier of fact may infer that [a defendant] an actor intended to engage in a clandestine laboratory operation if the [defendant] actor:

12280 (1) is in illegal possession of a controlled substance precursor; or

12281 (2) illegally possesses, or attempts to illegally possess, a controlled substance or controlled substance precursor and is in possession of any one of the following pieces of equipment:

12282 (a) glass reaction vessel;

12283 (b) separatory funnel;

12284 (c) glass condenser;

12285 (d) analytical balance;

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- 12287 (e) heating mantle;
- 12288 (f) pill press machine or similar device;
- 12289 (g) closed loop extraction system;
- 12290 (h) extraction tube; or
- 12291 (i) rotary evaporator.

12349 Section 216. Section **76-18-506** is renumbered and amended to read:

12351 **[58-37d-4] 76-18-506. Unlawful clandestine drug offense.**

- 12295 (1) Terms defined in Sections 58-37-101, 76-1-101.5, 76-18-101, and 76-18-501 apply to this section.
- 12297 (2) [It is unlawful for any person to] An actor commits an unlawful clandestine drug offense if the actor knowingly or intentionally:
 - 12299 (a) [possess] possesses a controlled substance or a controlled substance precursor with the intent to engage in a clandestine laboratory operation;
 - 12301 (b) [possess] possesses laboratory equipment or supplies with the intent to engage in a clandestine laboratory operation;
 - 12303 (c) [sell, distribute, or otherwise supply] sells, distributes, or otherwise supplies a controlled substance, controlled substance precursor, laboratory equipment, or laboratory supplies, knowing or having reasonable cause to believe any of these items will be used for a clandestine laboratory operation;
 - 12307 (d) [evade] evades the recordkeeping provisions of [Title 58, Chapter 37e, Utah Controlled Substance Precursor Act,] Title 58, Chapter 37c, Controlled Substance Precursors, knowing or having reasonable cause to believe that the material distributed or received will be used for a clandestine laboratory operation;
 - 12311 (e) [conspire with or aid] conspires with or aids another to engage in a clandestine laboratory operation;
 - 12313 (f) [produce or manufacture, or possess] produces or manufactures, or possesses with intent to produce or manufacture, a controlled or counterfeit substance except as authorized under [Title 58, Chapter 37, Utah Controlled Substances Act] Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances;
 - 12318 (g) [transport or convey] transports or conveys a controlled or counterfeit substance with the intent to distribute or to be distributed by the [person] actor transporting or conveying the controlled or counterfeit substance or by another person regardless of whether the final destination for the distribution is within this state or another location; or

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(h) [engage] engages in compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing of any substance, including a controlled substance precursor, or the packaging, repackaging, labeling, or relabeling of a container holding a substance that is a product of any of these activities, knowing or having reasonable cause to believe that the substance is a product of any of these activities and will be used in the illegal manufacture of specified controlled substances.

12330 [(2)] (3)

(a) A person who violates Subsection (1) is guilty of Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony punishable by imprisonment for an indeterminate term of not less than three years nor more than 15 years.

12334 (b) Subject to Subsection (4), a violation of Subsection (2)(a), (b), (e), (f), or (h) is a first degree felony if the trier of fact also finds any one of the following conditions occurred in conjunction with the violation:

12337 (i) possession of a firearm;

12338 (ii) use of a booby trap;

12339 (iii) illegal possession, transportation, or disposal of hazardous or dangerous material, or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment;

12343 (iv) the intended laboratory operation was to take place or did take place within 500 feet of a residence, place of business, church, or school;

12345 (v) the clandestine laboratory operation actually produced any amount of a specified controlled substance or a counterfeit opioid; or

12347 (vi) the intended clandestine laboratory operation was for the production of cocaine base or methamphetamine base.

12349 (4) If the trier of fact finds that two or more of the conditions listed in Subsection (3)(b) occurred in conjunction with a violation of Subsection (2)(a), (b), (e), (f), or (h) at sentencing for the first degree felony:

12352 (a) probation may not be granted;

12353 (b) the execution or imposition of the sentence may not be suspended; and

12354 (c) the court may not enter a judgment for a lower category of offense.

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12412 Section 217. Section **77-7-8** is amended to read:

77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.

12358 (1) As used in this section:

12359 (a) "Daytime hours" means the same as that term is defined in Section 77-7-5.

12360 (b) "Forcibly enter" means entering any premises by force.

12361 (c) "Knock" means to knock with reasonably strong force in a quick succession of three or more contacts with a door or other point of entry into a building that would allow the occupant to reasonably hear the peace officer's demand for entry.

12364 (d) "Knock and announce warrant" means a lawful search warrant that authorizes entry into a building after knocking and demanding entry onto a premises described in Subsection (2).

12367 (e) "Nighttime hours" means the same as that term is defined in Section 77-7-5.

12368 (f) "Peace officer" means the same as that term is defined in Section 53-1-102.

12369 (g) "Premises" means any building, room, conveyance, compartment, or other enclosure.

12370 (h)

12371 (i) "Supervisory official" means a command-level officer.

12373 (ii) "Supervisory official" includes a sheriff, a head of a law enforcement agency, and a supervisory enforcement officer equivalent to a sergeant rank or higher.

12376 (2)

12377 (a) Subject to the provisions of this Subsection (2), a peace officer when making a lawful arrest, or serving a knock and announce warrant, may forcibly enter a premises:

12377 (i) if the individual to be arrested is located within the premises; or

12379 (ii) if there is probable cause to believe that the individual is located within the premises.

12381 (b)

12384 (i) Subject to Subsection (3), before forcibly entering a premises as described in Subsection (2)(a), a peace officer shall:

12385 (A) wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing that identifies the individual as a law enforcement officer;

12386 (B) audibly identify himself or herself as a law enforcement officer;

12387 (C) knock and demand admission more than once;

12388 (D) wait a reasonable period of time for an occupant to admit access after knocking and demanding admission; and

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12388 (E) explain the purpose for which admission is desired.

12389 (3)

(a) A peace officer does not need to:

12390 (i) comply with the requirements of Subsection (2)(b)(i)(B), (2)(b)(i)(C), (2)(b)(i)(D), and (2)(b)(i)
(E) before forcibly entering a premises:

12392 (A) under the exceptions in Section 77-7-6 or 77-7-8.1;

12393 (B) where there is probable cause to believe exigent circumstances exist due to the destruction of
evidence; or

12395 (C) where there is reasonable suspicion to believe exigent circumstances exist due to the physical safety
of a peace officer or individual inside or in near proximity to the premises; or

12398 (ii) comply with the requirements described in Subsections (2)(b)(i)(C) and (2)(b)(i)(D) before
forcibly entering a premises if the officer, or another peace officer:

12401 (A) has been near the premises for an extended amount of time and a reasonable person would conclude
that an individual on the premises knows or should know that a peace officer is present;

12404 (B) has demanded admission and announced an intent to enter the premises more than once; and

12406 (C) has complied with Subsections (2)(b)(i)(A), (2)(b)(i)(B), and (2)(b)(i)(E).

12407 (b) If a peace officer forcibly enters a premises under Subsection (3)(a)(i), the peace officer shall
identify himself or herself and state the purpose for entering the premises as soon as practicable after
entering the premises.

12410 (4) The peace officer may use only that force that is reasonable and necessary to forcibly enter a
premises under this section.

12412 (5) Subject to Subsection (6), if the premises to be entered under Subsection (2)(a) appears to be a
private residence or the peace officer knows the premises is a private residence, and if there is no
consent to enter or there are no exigent circumstances, the peace officer shall, before entering the
premises:

12416 (a) obtain an arrest or search warrant if the premises is the residence of the individual to be arrested; or

12418 (b) obtain a search warrant if the building is a private residence, but not the residence of the individual
whose arrest is sought.

12420 (6) Before seeking a warrant from a judge or magistrate under Subsection (2)(a), a supervisory official
shall, using the peace officer's affidavit:

12422 (a) independently perform an assessment to evaluate the totality of the circumstances;

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- 12423 (b) ensure reasonable intelligence gathering efforts have been made;
- 12424 (c) ensure a threat assessment was completed on the individual or premises to be searched; and
- 12426 (d) determine either that there is a sufficient basis to support seeking a warrant or require that the peace officer continue evidence gathering efforts.

12428 (7) Notwithstanding any other provision of this chapter, a peace officer may not forcibly enter a premises based solely on:

- 12430 (a) the alleged possession or use of a controlled substance under Section [58-37-8] 76-18-207; or
- 12432 (b) the alleged possession of drug paraphernalia as defined in Section [58-37a-3] 76-18-301.

12434 (8) All arrest warrants are subject to the conditions described in Subsection 77-7-5(2).

12435 (9) A peace officer shall serve a knock and announce warrant during daytime hours unless a peace officer has requested, and a judge or magistrate has approved, for the warrant to be served during nighttime hours.

12495 Section 218. Section **77-11a-101** is amended to read:

77-11a-101. Definitions.

As used in this chapter:

- 12441 (1)
 - (a) "Agency" means an agency of this state or a political subdivision of this state.
 - 12442 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.
- 12443 (2) "Claimant" means:
 - 12444 (a) an owner of property;
 - 12445 (b) an interest holder; or
 - 12446 (c) an individual or entity who asserts a claim to any property for which an agency seeks to forfeit.
- 12448 (3)
 - (a) "Computer" means, except as provided in Subsection (3)(c), an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.
 - 12451 (b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.
 - 12453 (c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.
- 12456 (4)

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- (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.
- (b) "Contraband" includes:
 - (i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of ~~Title 58, Chapter 37, Utah Controlled Substances Act~~ Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances; or
 - (ii) a computer that:
 - (A) contains or houses child sexual abuse material, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child sexual abuse material; or
 - (B) contains the personal identifying information of another individual, as defined in Section 76-6-1101, whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.
- (5) "Controlled substance" means the same as that term is defined in Section ~~58-37-2~~ 58-37-101.
- (6) "Court" means a municipal, county, or state court.
- (7) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.
- (8) "Evidence" means the same as that term is defined in Section 77-11c-101.
- (9) "Forfeit" means to divest a claimant of an ownership interest in property seized by a peace officer or agency.
- (10) "Innocent owner" means a claimant who:
 - (a) held an ownership interest in property at the time of the commission of an offense subjecting the property to seizure, and:
 - (i) did not have actual knowledge of the offense subjecting the property to seizure; or
 - (ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or
 - (b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to seizure had occurred or that the property had been seized, and:
 - (i) acquired the property in a bona fide transaction for value;
 - (ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

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12492 (iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

12494 (11)

(a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

12498 (b) "Interest holder" does not mean a person:

12499 (i) who holds property for the benefit of or as an agent or nominee for another person; or

12501 (ii) who is not in substantial compliance with any statute requiring an interest in property to be:

12503 (A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

12505 (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

12508 (12) "Law enforcement agency" means:

12509 (a) a municipal, county, state institution of higher education, or state police force or department;

12511 (b) a sheriff's office; or

12512 (c) a municipal, county, or state prosecuting authority.

12513 (13) "Legislative body" means:

12514 (a)

(i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

12517 (ii) the agency's governing political subdivision; or

12518 (b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

12521 (14) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

12525 (15) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in property.

12527 (16) "Pawn or secondhand business" means the same as that term is defined in Section 13-32a-102.

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12529 (17) "Peace officer" means an employee:

12530 (a) of an agency;

12531 (b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

12533 (c) who is authorized by the agency to seize property.

12534 (18)

12535 (a) "Proceeds" means:

12535 (i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

12537 (ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (18)(a)(i).

12540 (b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection (18)(a)(i).

12543 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to seizure.

12545 (19)

12546 (a) "Property" means all property, whether real or personal, tangible or intangible.

12546 (b) "Property" does not include contraband.

12547 (20) "Prosecuting attorney" means:

12548 (a) the attorney general and an assistant attorney general;

12549 (b) a district attorney or deputy district attorney;

12550 (c) a county attorney or assistant county attorney; and

12551 (d) an attorney authorized to commence an action on behalf of the state.

12552 (21) "Public interest use" means a:

12553 (a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

12555 (b) donation of the property to a nonprofit charity registered with the state.

12556 (22) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

12558 (23)

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- (a) "Seized property" means property seized by a peace officer or agency in accordance with Section 77-11a-201.
- (b) "Seized property" includes property that the agency seeks to forfeit under Chapter 11b, Forfeiture of Seized Property.

Section 219. Section **77-11b-102** is amended to read:

77-11b-102. Property subject to forfeiture.

- (1)
 - (a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:
 - (i) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; or
 - (ii) seized proceeds.
 - (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or an interest holder.
- (2) If seized property is used to facilitate an offense that is a violation of Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.
- (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:
 - (a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:
 - (i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);
 - (ii) a felony violation under Subsection 76-5-102.1(2)(b);
 - (iii) a violation under Section 76-5-207; or

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- (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or
- (b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:
 - (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:
 - (A) Section 41-6a-502;
 - (B) Section 41-6a-517;
 - (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);
 - (D) Section 41-6a-520.1;
 - (E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
 - (F) Section 76-5-102.1;
 - (G) Section 76-5-207; or
 - (H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or
 - (ii) the denial, suspension, revocation, or disqualification described in Subsection (3)(b)(i):
 - (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and
 - (B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsection (3)(b)(i).
- (4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under ~~Subseetion 58-37-8(2)(a)(i)~~ Section 76-18-207 but not Subsection ~~[58-37-8(2)(b)(i)]~~ 76-18-207(3)(a), an agency may not seek to forfeit the property that was seized in accordance with the arrest.
- (5) If a peace officer seizes an individual's firearm as the result of an offense under Section 76-11-218, an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the firearm.

Section 220. Section **77-11c-101** is amended to read:

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77-11c-101. Definitions.

As used in this chapter:

(1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

(2) "Adjudicated" means that:

(a)

(i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

(ii) a sentence has been imposed by the court; or

(b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section 80-6-701.

(3) "Adjudication" means:

(a) a judgment of conviction by plea or verdict of an offense; or

(b) an adjudication for an offense by a juvenile court under Section 80-6-701.

(4) "Agency" means the same as that term is defined in Section 77-11a-101.

(5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.

(6)

(a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:

(i) is collected as part of an investigation or prosecution of a violent felony offense; and

(ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

(b) "Biological evidence" includes:

(i) material that is catalogued separately, including:

(A) on a slide or swab; or

(B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

(ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

(iii) the contents of a sexual assault kit; and

(iv) for a violent felony offense, material described in this Subsection (6) that is in the custody of an evidence collecting or retaining entity on May 4, 2022.

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- 12657 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.
- 12658 (8) "Computer" means the same as that term is defined in Section 77-11a-101.
- 12659 (9) "Continuous chain of custody" means:
 - 12660 (a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and
 - 12662 (b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.
- 12664 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.
- 12665 (11) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.
- 12667 (12) "Court" means a municipal, county, or state court.
- 12668 (13) "DNA" means deoxyribonucleic acid.
- 12669 (14) "DNA profile" means a unique identifier of an individual derived from DNA.
- 12670 (15) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3] 76-18-301.
- 12672 (16) "Evidence" means property, contraband, or an item or substance that:
 - 12673 (a) is seized or collected as part of an investigation or prosecution of an offense; and
 - 12674 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 12675 (17)
 - 12677 (a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.
 - 12678 (b) "Evidence collecting or retaining entity" includes:
 - 12679 (i) a medical or forensic entity;
 - 12680 (ii) a law enforcement agency;
 - 12681 (iii) a court; and
 - 12683 (iv) an official, employee, or agent of an entity or agency described in this Subsection (17).
 - [{v}] (c) "Evidence collecting or retaining entity" does not include a collecting facility defined in Section 53-10-902.
 - 12685 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.
 - 12687 (19) "In custody" means an individual who:
 - 12688 (a) is incarcerated, civilly committed, on parole, or on probation; or
 - 12689 (b) is required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

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12691 (20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.

12693 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.

12696 (22) "Physical evidence" includes evidence that:

12697 (a) is related to:

12698 (i) an investigation;

12699 (ii) an arrest; or

12700 (iii) a prosecution that resulted in a judgment of conviction; and

12701 (b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.

12703 (23) "Property" means the same as that term is defined in Section 77-11a-101.

12704 (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

12705 (25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.

12706 (26) "Victim" means the same as that term is defined in Section 53-10-902.

12707 (27) "Violent felony offense" means the same as the term "violent felony" is defined in Section 76-3-203.5.

12709 (28) "Wildlife" means the same as that term is defined in Section 23A-1-101.

12767 Section 221. Section **77-23-210** is amended to read:

12768 **77-23-210. Force used in executing a search warrant -- When notice of authority is required as a prerequisite.**

12713 (1)

12717 (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant under this section shall comply with guidelines and procedures which are, at a minimum, in accordance with state law and model guidelines and procedures recommended by the Utah Peace Officer Standards and Training Council created in Section 53-6-106.

12720 (b) Written policies adopted pursuant to this section shall be subject to public disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

12723 (2) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

12723 (a) if, after giving notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or

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12725 (b) without notice of the officer's authority and purpose as provided in Subsection (3).

12726 (3)

12727 (a) The officer may enter without notice only if:

12729 (i) there is reasonable suspicion to believe that the notice will endanger the life or safety of the
officer or another person;

12731 (ii) there is probable cause to believe that evidence may be easily or quickly destroyed; ~~[H-F]~~ or

12737 (iii) the magistrate, having found probable cause based upon proof provided under oath that the
object of the search may be easily or quickly destroyed, or having found reason to believe that
physical harm may result to any person if notice were given, has directed that the officer need
not give notice of authority and purpose before entering the premises to be searched under the
Rules of Criminal Procedure; or

12737 (iv) the officer physically observes and documents a previously unknown event or circumstance
at the time the warrant is being executed which creates probable cause to believe the object of
the search is being destroyed, or creates reasonable suspicion to believe that physical harm may
result to any person if notice were given.

12742 (b) The officer shall identify himself or herself and state the purpose for entering the premises as soon
as practicable after entering.

12744 (4) An officer executing a warrant under this section may use only that force which is reasonable and
necessary to execute the warrant.

12746 (5) An officer executing a warrant under this section shall wear readily identifiable markings, including
a badge and vest or clothing with a distinguishing label or other writing which indicates that he or
she is a law enforcement officer.

12749 (6)

12752 (a) An officer executing a warrant under this section shall comply with the officer's employing agency's
body worn camera policy when the officer is equipped with a body-worn camera.

12752 (b) The employing agency's policy regarding the use of body-worn cameras shall include a provision
that an officer executing a warrant under this section shall wear a body-worn camera when a camera
is available, except in exigent circumstances where it is not practicable to do so.

12756 (7)

12756 (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the
risks of unnecessarily confrontational or invasive methods which may result in harm to any person.

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12759 (b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.

12764 (8) Notwithstanding any provision in this chapter, a warrant authorizing forcible entry without prior announcement may not be issued under this section, solely for:

12766 (a) the alleged possession or use of a controlled substance; or

12767 (b) the alleged possession of drug paraphernalia as provided in Section [58-37a-3] 76-18-301.

12826 Section 222. Section **77-23a-8** is amended to read:

12827 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

12772 (1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

12779 (2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

12781 (a) an act:

12782 (i) prohibited by the criminal provisions of:

12783 (A) [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;

12786 (B) [Title 58, Chapter 37e, Utah Controlled Substance Precursor Act] Title 58, Chapter 37c, Controlled Substance Precursors; or

12788 (C) [Title 58, Chapter 37d, Clandestine Drug Lab Act] Title 76, Chapter 18, Part 5, Clandestine Drug Labs; and

12790 (ii) punishable by a term of imprisonment of more than one year;

12791 (b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

12793 (c) an offense:

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12794 (i) of:

12795 (A) attempt under Section 76-4-101;

12796 (B) conspiracy under Section 76-4-201;

12797 (C) criminal solicitation of an adult, Section 76-4-203; or

12798 (D) criminal solicitation of a minor, Section 76-4-205; and

12799 (ii) punishable by a term of imprisonment of more than one year;

12800 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year
under Section 76-5-107.3;

12802 (e)

12803 (i) aggravated murder under Section 76-5-202;

12804 (ii) murder under Section 76-5-203; or

12805 (iii) manslaughter under Section 76-5-205;

12806 (f)

12807 (i) kidnapping under Section 76-5-301;

12808 (ii) child kidnapping under Section 76-5-301.1;

12809 (iii) aggravated kidnapping under Section 76-5-302;

12810 (iv) human trafficking for labor under Section 76-5-308;

12811 (v) human trafficking for sexual exploitation under Section 76-5-308.1;

12812 (vi) human trafficking of a child under Section 76-5-308.5;

12813 (vii) human smuggling under Section 76-5-308.3;

12814 (viii) aggravated human trafficking under Section 76-5-310; or

12815 (ix) aggravated human smuggling under Section 76-5-310.1;

12816 (g)

12817 (i) arson under Section 76-6-102; or

12818 (ii) aggravated arson under Section 76-6-103;

12819 (h)

12820 (i) burglary under Section 76-6-202; or

12821 (ii) aggravated burglary under Section 76-6-203;

12822 (i)

12823 (i) robbery under Section 76-6-301; or

12824 (ii) aggravated robbery under Section 76-6-302;

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- 12820 (j) an offense:
- 12821 (i) of:
 - 12822 (A) theft under Section 76-6-404;
 - 12823 (B) theft by deception under Section 76-6-405; or
 - 12824 (C) theft by extortion under Section 76-6-406; and
- 12825 (ii) punishable by a maximum term of imprisonment of more than one year;
- 12826 (k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year under Section 76-6-408;
- 12828 (l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;
- 12830 (m) bribery of a labor official under Section 76-6-509;
- 12831 (n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;
- 12832 (o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-518;
- 12834 (p) criminal usury under Section 76-6-520;
- 12835 (q) insurance fraud punishable by a maximum term of imprisonment of more than one year under Section 76-6-521;
- 12837 (r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year under Section 76-6-703;
- 12839 (s) bribery to influence official or political actions under Section 76-8-103;
- 12840 (t) misusing public money or public property under Section 76-8-402;
- 12841 (u) tampering with a witness under Section 76-8-508;
- 12842 (v) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 12843 (w) tampering or retaliating against a juror under Section 76-8-508.5;
- 12844 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 12845 (y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 12846 (z) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- 12848 (aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
- 12850 (bb) destruction of property to interfere with preparations for defense or war under Section 76-8-802;
- 12852 (cc) an attempt to commit crimes of sabotage under Section 76-8-804;
- 12853 (dd) conspiracy to commit crimes of sabotage under Section 76-8-805;

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12854 (ee) advocating criminal syndicalism or sabotage under Section 76-8-902;
12855 (ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;
12856 (gg) riot punishable by a maximum term of imprisonment of more than one year under Section
76-9-101;
12858 (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term
of imprisonment of more than one year under Section 76-13-205;
12860 (ii) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device under
Section 76-15-209;
12862 (jj) unlawful conduct involving an explosive, chemical, or incendiary device under Section 76-15-210;
12864 (kk) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;
12866 (ll) exploiting prostitution under Section 76-5d-207;
12867 (mm) aggravated exploitation of prostitution under Section 76-5d-208;
12868 (nn) bus hijacking under Section 76-9-1502;
12869 (oo) assault with intent to commit bus hijacking under Section 76-9-1503;
12870 (pp) unlawful discharge of a firearm or hurling of a missile into a bus or terminal under Section
76-9-1504;
12872 (qq) violations under Title 76, Chapter 17, Part 4, Offenses Concerning [a Pattern] Patterns of Unlawful
Activity, and the offenses listed under the definition of unlawful activity in the act, including
the offenses not punishable by a maximum term of imprisonment of more than one year when
those offenses are investigated as predicates for the offenses prohibited by the act under Section
76-17-401;
12877 (rr) communications fraud under Section 76-6-525;
12878 (ss) money laundering under Sections 76-9-1602 and 76-9-1603; or
12879 (tt) reporting by a person engaged in a trade or business when the offense is punishable by a maximum
term of imprisonment of more than one year under Section 76-9-1604.

12938 Section 223. Section **77-40a-101** is amended to read:

12939 **77-40a-101. Definitions.**

As used in this chapter:

12884 (1) "Agency" means a state, county, or local government entity that generates or maintains records
relating to an investigation, arrest, detention, or conviction for an offense for which expungement
may be ordered.

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12887 (2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.

12889 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

12891 (4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

12894 (5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

12896 (6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

12898 (7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.

12899 (8) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.

12901 (9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

12903 (10) "Court" means a district court or a justice court.

12904 (11) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

12906 (12) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

12908 (13) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

12910 (14) "Department" means the Department of Public Safety established in Section 53-1-103.

12911 (15) "Drug possession offense" means:

12912 (a) an offense described in [Subsektion 58-37-8(2)] Section 76-18-207, 76-18-212, or 76-18-213, except for:

12914 (i) an offense under Subsection [58-37-8(2)(b)(i)] 76-18-207(3)(a), possession of 100 pounds or more of marijuana;

12916 (ii) an offense enhanced under Subsection [58-37-8(2)(e)] 76-18-207(4)(b), violation in a correctional facility; or

12918 (iii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

12922 (b) an offense described in [Subsektion 58-37a-5(1)] Section 76-18-304, regarding use or possession of drug paraphernalia;

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12924 (c) an offense described in Section [58-37b-6] 76-18-403, regarding possession or use of an imitation controlled substance; [-or]

12983 (d) an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in this Subsection (15); or

12926 [(d)] (e) any local ordinance which is substantially similar to any of the offenses described in this Subsection (15).

12928 (16)

12929 (a) "Expunge" means to remove a record from public inspection by:

12930 (i) sealing the record; or

12930 (ii) restricting or denying access to the record.

12931 (b) "Expunge" does not include the destruction of a record.

12932 (17) "Indigent" means a financial status that results from a court finding that a petitioner is financially unable to pay the fee to file a petition for expungement under Section 78A-2-302.

12935 (18) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

12937 (19)

12939 (a) "Minor regulatory offense" means a class B or C misdemeanor offense or a local ordinance.

12940 (b) "Minor regulatory offense" includes an offense under Section 76-9-110 or 76-9-1106.

12940 (c) "Minor regulatory offense" does not include:

12941 (i) any drug possession offense;

12942 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

12944 (iii) an offense under Sections 73-18-13 through 73-18-13.6;

12945 (iv) except as provided in Subsection (19)(b), an offense under Title 76, Utah Criminal Code; or

12947 (v) any local ordinance that is substantially similar to an offense listed in Subsections (19)(c)(i) through (iv).

12949 (20) "Petitioner" means an individual applying for expungement under this chapter.

12950 (21) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

12951 (22) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material, regardless of physical form or characteristics, that:

12954 (a) is contained in the agency's file regarding the arrest, detention, investigation, conviction, sentence, incarceration, probation, or parole of an individual; and

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12956 (b) is prepared, owned, received, or retained by an agency, including a court.

12957 (23) "Special certificate" means a document issued as described in Subsection 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with the case do not clearly demonstrate whether the case is eligible for expungement.

12961 (24)

12962 (a) "Traffic offense" means:

12964 (i) an infraction or a class C misdemeanor offense under Title 41, Chapter 1a, Motor Vehicle Act;

12966 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

12968 (iii) an infraction or a class C misdemeanor offense under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

12970 (iv) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

12972 (v) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

12974 (vi) all local ordinances that are substantially similar to an offense listed in Subsections (24)(a)(i) through (iii).

12975 (b) "Traffic offense" does not include:

12977 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

12979 (ii) an offense under Section 41-12a-302 for operating a motor vehicle without owner's or operator's security;

12981 (iii) an offense under Section 41-12a-303.3 for providing false evidence of owner's or operator's security;

12982 (iv) an offense under Sections 73-18-13 through 73-18-13.6; or

12984 (v) any local ordinance that is substantially similar to an offense listed in Subsection (24)(b)(i) or (ii).

13044 (25) "Traffic offense case" means that each offense in the case is a traffic offense.

13045 Section 224. Section **77-40a-205** is amended to read:

13045 **77-40a-205. Automatic expungement of state records for a clean slate case.**

12988 (1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

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- (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;
- (b) the case is eligible for expungement under this section; and
- (c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

- (a)
 - (i) each conviction within the case is a conviction for:
 - (A) a misdemeanor offense for possession of a controlled substance in violation of [Subsektion 58-37-8(2)(a)(i)] Section 76-18-207, or an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of Section 76-18-207;
 - (B) a class B misdemeanor offense;
 - (C) a class C misdemeanor offense; or
 - (D) an infraction; and
 - (ii) the following time periods have passed after the day on which the individual is adjudicated:
 - (A) at least five years for the conviction of a class C misdemeanor offense or an infraction;
 - (B) at least six years for the conviction of a class B misdemeanor offense; or
 - (C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of [Subsektion 58-37-8(2)(a)(i)] Section 76-18-207, or an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of Section 76-18-207; or
- (b)
 - (i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;
 - (ii) each charge within the case is:
 - (A) a misdemeanor offense for possession of a controlled substance in violation of [Subsektion 58-37-8(2)(a)(i)] Section 76-18-207, or an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of Section 76-18-207;
 - (B) a class B misdemeanor offense;
 - (C) a class C misdemeanor offense; or

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13019 (D) an infraction; and

13020 (iii) the following time periods have passed after the day on which the case is dismissed:

13022 (A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

13024 (B) at least six years for a charge in the case for a class B misdemeanor offense; or

13025 (C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of [Subsection 58-37-8(2)(a)(i)] Section 76-18-207, or an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of Section 76-18-207.

13028 (3) A case is not eligible for expungement under this section if:

13029 (a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

13031 (i) the exception in Subsection 77-40a-303(7); or

13032 (ii) any infraction, traffic offense, or minor regulatory offense;

13033 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

13035 (c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the Division of Adult Probation and Parole created in Section 64-14-202;

13039 (d) the case resulted in the individual being found not guilty by reason of insanity;

13040 (e) the case establishes a criminal accounts receivable that:

13041 (i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

13043 (ii) has not been satisfied according to court records; or

13044 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

13045 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);

13046 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

13048 (iii) a weapons offense in violation of Title 76, Chapter 11, Weapons;

13049 (iv) sexual battery in violation of Section 76-5-418;

13050 (v) an act of lewdness in violation of Section 76-5-419 or 76-5-420;

13051 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

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13053 (vii) damage to or interruption of a communication device in violation of Section 76-6-108;
13055 (viii) a domestic violence offense as defined in Section 77-36-1;
13056 (ix) driving under the influence of alcohol, drugs, or a combination of both, or with specified or unsafe
13059 blood alcohol concentration, as codified before February 2, 2005, Laws of Utah 2005, Chapter 2; or
(x) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a
class A misdemeanor conviction for possession of a controlled substance in violation of [Subsektion
58-37-8(2)(a)(i)] Section 76-18-207, or an offense described in a statute previously in effect in this
state that is the same or substantially similar to a violation of Section 76-18-207.

13063 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall
receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible
for automatic expungement under this section.

13066 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting
agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal
Procedure if the prosecuting agency objects to an automatic expungement for any of the following
reasons:

13070 (a) the prosecuting agency believes that the case is not eligible for expungement under this section after
reviewing the agency record;

13072 (b) the individual has not paid restitution to the victim as ordered by the court; or

13073 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual
involved in the case is continuing to engage in criminal activity within or outside of the state.

13076 (6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection
(5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not
proceed with automatic expungement of the case.

13079 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the
prosecuting agency providing written notice of an objection under Subsection (5), the court shall
proceed with automatic expungement of the case.

13082 (8) If a court issues an order of expungement under Subsection (1), the court shall:

13083 (a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

13085 (b) notify the bureau and the prosecuting agency identified in the case, based on information available
to the court, of the order of expungement.

13155 Section 225. Section **78A-2-231** is amended to read:

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78A-2-231. Consideration of lawful use or possession of medical cannabis.

- (1) As used in this section:
 - (a) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
 - (b) "Directions of use" means the same as that term is defined in Section 26B-4-201.
 - (c) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.
 - (d) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
 - (e) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.
 - (f) "Medical cannabis device" means the same as that term is defined in Section 26B-4-201.
 - (g) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.
- (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:
 - (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;
 - (b) the individual's possession or use complies with Subsection [58-37-3.7(2)] 58-37-404(2) or (3); or
 - (c)
 - (i) the individual's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
 - (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26B-4-230(5).
- (3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:
 - (a) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

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13124 (b) Subsection [58-37-3.7(2)] 58-37-404(2) or (3).

13193 Section 226. Section **78A-5-102** is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

13127 (1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

13129 (2) A district court judge may:

13130 (a) issue all extraordinary writs and other writs necessary to carry into effect the district court judge's []
13130 orders, judgments, and decrees; and

13132 (b) preside over an action for which the Business and Chancery Court has jurisdiction if:

13133 (i) the district court judge is designated by the presiding officer of the Judicial Council to preside over an action in the Business and Chancery Court as described in Section 78A-1-103.5; and

13136 (ii) a Business and Chancery Court judge is unable to preside over the action due to recusal or disqualification.

13138 (3) The district court has jurisdiction:

13139 (a) over matters of lawyer discipline consistent with the rules of the Supreme Court;

13140 (b) over all matters properly filed in the circuit court prior to July 1, 1996;

13141 (c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);

13142 (d) to enjoin a violation of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;

13145 (e) over a petition seeking to terminate parental rights as described in Section 81-13-205;

13146 (f) except as provided in Subsection 78A-6-103(2)(a)(xiv) or (xv), over an adoption proceeding; and

13148 (g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

13150 (4) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

13153 (5) The district court has jurisdiction to review:

13154 (a) a municipal administrative proceeding as described in Section 10-3-703.7;

13155 (b) a decision resulting from a formal adjudicative proceeding by the State Tax Commission as described in Section 59-1-601;

13157 (c) except as provided in Section 63G-4-402, a final agency action resulting from an informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative Procedures Act; and

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13160 (d) by trial de novo, a final order of the Department of Transportation resulting from formal and
informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard Control Act.

13163 (6) The district court has original and exclusive jurisdiction over an action brought under Title 63G,
Chapter 7, Governmental Immunity Act of Utah.

13165 (7) The district court has exclusive jurisdiction to modify a juvenile court's permanent custody and
guardianship order as described in Subsection 78A-6-357(3)(e)(ii).

13167 (8) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B
misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a
justice court has original jurisdiction under Section 78A-7-106 if:

13170 (a) there is no justice court with territorial jurisdiction;

13171 (b) the offense occurred within the boundaries of the municipality in which the district courthouse is
located and that municipality has not formed, or has formed and dissolved, a justice court; or

13174 (c) the offense is [-]included in an indictment or information covering a single criminal episode alleging
the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older.

13177 (9) If a district court has jurisdiction in accordance with Subsection (4), (8)(a), or (8)(b), the district
court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is
committed by an individual who is 16 or 17 years old.

13180 (10) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2,
Child Protective Orders, if the juvenile court transfers the action to the district court.

13183 (11)
(a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers
to the district court.

13185 (b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any
refiled case of a criminal action transferred to the district court if the district court dismissed the
transferred case without prejudice.

13188 (12) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i) over a
parentage action filed in the district court, the district court may transfer jurisdiction over the
parentage action to the juvenile court.

13191 (13) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a final order,
judgment, and decree of the district court as described in Sections 78A-3-102 and 78A-4-103.

13262 Section 227. Section **78A-5-201** is amended to read:

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78A-5-201. Creation and expansion of existing drug court programs -- Definition of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.

(1) There may be created a drug court program in any judicial district that demonstrates:

- (a) the need for a drug court program; and
- (b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.

(2) The collaborative strategy in each drug court program shall:

- (a) include monitoring and evaluation components to measure program effectiveness; and
- (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

 - (i) executive director of the Department of Health and Human Services;
 - (ii) executive director of the Department of Corrections; and
 - (iii) state court administrator.

(3)

- (a) Funds disbursed to a drug court program shall be allocated as follows:
 - (i) 87% to the Department of Health and Human Services for testing, treatment, and case management; and
 - (ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.
- (b) This provision does not apply to federal block grant funds.
- (4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.
- (5) Screening criteria for participation in a drug court program shall include:
 - (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;
 - (b) an agreement to frequent alcohol and other drug testing;
 - (c) participation in one or more substance abuse treatment programs; and
 - (d) an agreement to submit to sanctions for noncompliance with drug court program requirements.
- (6)

 - (a) The Judicial Council shall develop rules prescribing eligibility requirements for participation in adult criminal drug courts.

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13230 (b) The eligibility requirements described in Subsection (6)(a):

13231 (i) shall require that the acceptance of an offender into a drug court is based on a risk and needs assessment and targeted at individuals who are high risk and high needs; and

13234 (ii) may not limit participation in a drug court only to individuals convicted of an offense described in Section [58-37-8] 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211, 76-18-212,
76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219, or an offense
described in a statute previously in effect in this state that is the same or substantially similar
to a violation of Section 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211,
76-18-212, 76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219.

13238 (c) A plea to, conviction of, or adjudication for a felony offense is not required for participation in a drug court program.

13312 Section 228. Section **78B-3-801** is amended to read:

78B-3-801. Cause of action for death or addiction caused by use or ingestion of illegal controlled substances -- Damages.

13243 (1) As used in this section, "substance" means any illegal controlled substance under [Title 58, Chapter 37, ~~Utah Controlled Substances Act~~ Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances.]

13246 (2) A person is subject to a civil action by a person or an estate under Subsection (3) who:

13247 (a) unlawfully provided to or administered to the deceased person or the addicted person any substance that caused or contributed to the person's addiction or to the death of the deceased person; or

13250 (b) unlawfully provided any substance to any person in the chain of transfer of the substance that connects directly to the person who subsequently provided or administered the illegal controlled substance to the addicted person or to the deceased person under Subsection (2)(a).

13254 (3)

(a) A civil action for treble damages and punitive damages may be brought against any person under Subsection (2) by the estate of a person whose death was caused in whole or in part by ingestion or other exposure to any illegal controlled substance.

13257 (b) A civil action for treble damages, punitive damages, and costs of addiction treatment or rehabilitation may be brought against any person under Subsection (2) by a person who has become or is addicted to any illegal controlled substance and the addiction was caused in whole or in part by ingestion of any illegal controlled substance.

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13261 (4) The burden is on the estate or the addicted person to prove the causal connection between the death
13262 or addiction, any substances provided or administered to the deceased or addicted person, and the
13263 defendant.

13264 (5) This section does not establish liability of or create a cause of action regarding:
13265 (a) a parent or guardian of a person younger than 18 years [of age] old who acts in violation of this
13266 section, unless the parent or guardian acts in violation of this section; or
13267 (b) a person who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, and who acts in
13268 accordance with the act.

13342 Section 229. Section **78B-4-504** is amended to read:

78B-4-504. Donation of nonschedule drugs or devices -- Liability limitation.

13273 (1) As used in this section:

13274 (a) "Administer" is as defined in Section 58-17b-102.

13275 (b) "Dispense" is as defined in Section 58-17b-102.

13276 (c) "Distribute" is as defined in Section 58-17b-102.

13277 (d) "Drug outlet" means:

13278 (i) a pharmacy or pharmaceutical facility as defined in Section 58-17b-102; or

13279 (ii) a person with the authority to engage in the dispensing, delivering, manufacturing, or wholesaling
13280 of prescription drugs or devices outside of the state under the law of the jurisdiction in which the
13281 person operates.

13282 (e) "Health care provider" means:

13283 (i) a person who is a health care provider, as defined in Section 78B-3-403, with the authority under
13284 Title 58, Occupations and Professions, to prescribe, dispense, or administer prescription drugs or
13285 devices; or

13286 (ii) a person outside of the state with the authority to prescribe, dispense, or administer prescription
13287 drugs or devices under the law of the jurisdiction in which the person practices.

13289 (f) "Nonschedule drug or device" means:

13290 (i) a prescription drug or device, as defined in Section 58-17b-102, except that it does not include
13291 controlled substances, as defined in Section [58-37-2] 58-37-101; or

13292 (ii) a nonprescription drug, as defined in Section 58-17b-102.

13293 (g) "Prescription drug or device" is as defined in Section 58-17b-102.

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(2) A drug outlet is not subject to civil liability for an injury or death resulting from the defective condition of a nonschedule drug or device that the drug outlet distributes at no charge, in good faith, and for a charitable purpose to a drug outlet or health care provider for ultimate use by a needy person, provided that:

13298 (a) the drug outlet complies with applicable state and federal laws regarding the storage, handling, and distribution of the nonschedule drug or device; and

13300 (b) the injury or death is not the result of any act or omission of the drug outlet that constitutes gross negligence, recklessness, or intentional misconduct.

13302 (3) A health care provider is not subject to civil liability for an injury or death resulting from the defective condition of a nonschedule drug or device that the health care provider distributes to a drug outlet or health care provider for ultimate use by a needy person or directly administers, dispenses, or distributes to a needy person, provided that:

13306 (a) the health care provider complies with applicable state and federal laws regarding the storage, handling, distribution, dispensing, and administration of the nonschedule drug or device;

13309 (b) the injury or death is not the result of any act or omission of the health care provider that constitutes gross negligence, recklessness, or intentional misconduct; and

13311 (c) in the event that the health care provider directly administers, distributes, or dispenses the nonschedule drug or device to the needy person, the health care provider has retained a consent form signed by the needy person that explains the provisions of this section which extend liability protection for charitable donations of nonschedule drugs and devices.

13316 (4) Nothing in this section may be construed as:

13317 (a) permitting a person who is not authorized under Title 58, Occupations and Professions, to operate as a drug outlet or practice as a health care provider within the state; or

13320 (b) extending liability protection to any person who acts outside of the scope of authority granted to that person under the laws of this state or the jurisdiction in which the person operates or practices.

13395 Section 230. Section **78B-6-1101** is amended to read:

13396 **78B-6-1101. Definitions -- Nuisance -- Agriculture operations.**

13326 (1) As used in this part:

13327 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2] 58-37-101.

13329 (b) "Critical infrastructure materials operations" means the same as the term "critical infrastructure materials use" is defined in Section 10-20-701.

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13331 (c) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

13336 (d) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

13339 (e) (i) "Possession or use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of a controlled substance, and includes individual, joint, or group possession or use of a controlled substance.

13344 (ii) For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of a controlled substance with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

13351 (2) A nuisance may be the subject of an action.

13352 (3) A nuisance may include the following:

13353 (a) drug houses and drug dealing as provided in Section 78B-6-1107;

13354 (b) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;

13355 (c) criminal activity committed in concert with two or more individuals as provided in Section 76-3-203.1;

13357 (d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

13359 (e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

13361 (f) party houses that frequently create conditions defined in Subsection (1)(d);

13362 (g) prostitution as provided in Title 76, Chapter 5d, Prostitution; or

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13363 (h) the unlawful discharge of a firearm as provided in state or local law.

13364 (4) A nuisance under this part includes:

13365 (a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

13367 (i) drifts in more than once in each of two or more consecutive seven-day periods; and

13368 (ii) creates any of the conditions described in Subsection (1)(d); or

13369 (b) fumes resulting from the unlawful manufacturing or the unlawful possession or use of a controlled substance that drift into a residential unit a person rents, leases, or owns, from another residential or commercial unit.

13372 (5) Subsection (4)(a) does not apply to:

13373 (a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

13375 (b) a hotel or motel room.

13376 (6) Subsection (4)(a) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

13379 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

13453 Section 231. Section **78B-6-1107** is amended to read:

13454 **78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Discharge of a firearm -- Defense.**

13385 (1) Every building or place is a nuisance where:

13386 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, acquisition, or use occurs of any controlled substance, precursor, or analog described in [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37. Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances;

13391 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 9, Part 14, Gambling, which creates the conditions of a nuisance as that term is defined in Subsection 78B-6-1101(1);

13394 (c) criminal activity is committed in concert with two or more individuals as described in Section 76-3-203.1;

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- (d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
- (e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
- (f) parties occur frequently which create the conditions of a nuisance as that term is defined in Subsection 78B-6-1101(1);
- (g) prostitution or promotion of prostitution is regularly carried on by one or more persons as described in Title 76, Chapter 5d, Prostitution;
- (h) a violation of an offense under Title 76, Chapter 11, Weapons, occurs on the premises;
- (i) the unlawful discharge of a firearm, as provided in state or local law, occurs on the premises; and
- (j) human trafficking occurs as described in Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling.

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

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

Section 232. Section **78B-9-104** is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

- (1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:
- (a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;
- (b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;
- (c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;
- (d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

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- (e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:
 - (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;
 - (ii) the material evidence is not merely cumulative of evidence that was known;
 - (iii) the material evidence is not merely impeachment evidence; and
 - (iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;
- (f) the petitioner can prove that:
 - (i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the petitioner's conviction was not preserved in accordance with Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;
 - (ii)
 - (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or
 - (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and
 - (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;
- (g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:
 - (i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or
 - (ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

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13462 (h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

13464 (i) Section [58-37-8] 76-18-207, possession of a controlled substance, or an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of Section 76-18-207;

13465 (ii) Section 76-5d-206, aiding prostitution;

13466 (iii) Section 76-6-206, criminal trespass;

13467 (iv) Section 76-6-413, theft;

13468 (v) Section 76-6-502, possession of forged writing or device for writing;

13469 (vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;

13470 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

13472 (viii) Section 76-5-419, lewdness;

13473 (ix) Section 76-5d-202, engaging in prostitution;

13474 (x) Section 76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation; or

13476 (xi) Section 76-5d-210, sexual solicitation of a child.

13477 (2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

13480 (a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

13482 (b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

13486 (3)

(a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

13490 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be

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filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

13569 Section 233. Section **80-1-102** is amended to read:

13570 **80-1-102. Juvenile Code definitions.**

Except as provided in Section 80-6-1103, as used in this title:

13498 (1)

13499 (a) "Abuse" means:

13499 (i)

13500 (A) nonaccidental harm of a child;

13501 (B) threatened harm of a child;

13502 (C) sexual exploitation;

13503 (D) sexual abuse; or

13504 (E) human trafficking of a child in violation of Section 76-5-308.5; or

13505 (ii) that a child's parent:

13506 (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

13507 (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

13508 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

13509 (b) "Abuse" does not include:

13510 (i) reasonable discipline or management of a child, including withholding privileges;

13511 (ii) conduct described in Section 76-2-401; or

13512 (iii) the use of reasonable and necessary physical restraint or force on a child:

13513 (A) in self-defense;

13514 (B) in defense of others;

13515 (C) to protect the child; or

13516 (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1) (b)(iii)(A) through (C).

13517 (2) "Abused child" means a child who has been subjected to abuse.

13518 (3)

13519 (a) "Adjudication" means, except as provided in Subsection (3)(b):

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13523 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

13525 (A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

13528 (B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

13530 (C) a plea of no contest by a minor in the juvenile court; or

13531 (ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

13533 (b) "Adjudication" does not include:

13534 (i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

13536 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.

13537 (4)

13538 (a) "Adult" means an individual who is 18 years old or older.

13539 (b) "Adult" does not include an individual:

13540 (i) who is 18 years old or older; and

13541 (ii) who is a minor.

13542 (5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

13543 (6) "Board" means the Board of [-]Juvenile Court Judges.

13544 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

13545 (8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

13546 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.

13547 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

13548 (11) "Child protection team" means a team consisting of:

13549 (a) the child welfare caseworker assigned to the case;

13550 (b) if applicable, the child welfare caseworker who made the decision to remove the child;

13551 (c) a representative of the school or school district where the child attends school;

13552 (d) if applicable, the law enforcement officer who removed the child from the home;

13553 (e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

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- (f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;
- (g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and
- (h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12)

- (a) "Chronic abuse" means repeated or patterned abuse.
- (b) "Chronic abuse" does not mean an isolated incident of abuse.

(13)

- (a) "Chronic neglect" means repeated or patterned neglect.
- (b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section [58-37d-3] 76-18-501.

(15) "Commit" or "committed" means, unless specified otherwise:

- (a) with respect to a child, to transfer legal custody; and
- (b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

- (a) a county jail; or
- (b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

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

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, [-]guardian, or custodian.

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(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

13590 (23) "Detention" means home detention or secure detention.

13591 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

13593 (25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

13595 (a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

13597 (b) is designed to assist in making a determination of whether a minor shall be held in detention.

13599 (26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

13601 (a) consult with counsel with a reasonable degree of rational understanding; and

13602 (b) have a rational as well as factual understanding of the proceedings.

13603 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

13605 (28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

13608 (29) "Educational series" means an evidence-based instructional series:

13609 (a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

13611 (b) designed to prevent substance use or the onset of a mental health disorder.

13612 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.

13613 (31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

13617 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

13618 (33) "Formal probation" means a minor is:

13619 (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

13621 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

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13622 (34) "Gender identity" means the same as that term is defined in Section 34A-5-102.

13623 (35) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

13625 (36) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

13627 (a) marriage;

13628 (b) enlistment in the armed forces;

13629 (c) major medical, surgical, or psychiatric treatment; or

13630 (d) legal custody, if legal custody is not vested in another individual, agency, or institution.

13632 (37) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

13633 (38) "Harm" means:

13634 (a) physical or developmental injury or damage;

13635 (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

13637 (c) sexual abuse; or

13638 (d) sexual exploitation.

13639 (39) "Home detention" means placement of a minor:

13640 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

13643 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

13647 (40)

13650 (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

13651 (b) "Incest" includes:

13653 (i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

13653 (ii) relationships of parent and child by adoption; and

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- 13654 (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.
- 13656 (41) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 13657 (42) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 13658 (43) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.
- 13660 (44) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.
- 13662 (45) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 13663 (46)
 - 13664 (a) "Intake probation" means a minor is:
 - 13665 (i) monitored by a juvenile probation officer; and
 - 13665 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
 - 13666 (b) "Intake probation" does not include formal probation.
- 13667 (47) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.
- 13670 (48) "Juvenile offender" means:
 - 13671 (a) a serious youth offender; or
 - 13672 (b) a youth offender.
- 13673 (49) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.
- 13675 (50) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.
- 13679 (51) "Legal custody" means a relationship embodying:
 - 13680 (a) the right to physical custody [-]of the minor;
 - 13681 (b) the right and duty to protect, train, and discipline the minor;
 - 13682 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
 - 13684 (d) the right to determine where and with whom the minor shall live; and
 - 13685 (e) the right, in an emergency, to authorize surgery or other extraordinary [-]care.
- 13686 (52) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

13688

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(53) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

13690 (54) "Mental illness" means:

13691 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

13693 (b) the same as that term is defined in:

13694 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

13696 (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

13698 (55) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

13699 (a) a child; or

13700 (b) an individual:

13701 (i)

13702 (A) who is at least 18 years old and younger than 21 years old; and

13706 (B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

13707 (ii)

13708 (A) who is at least 18 years old and younger than 25 years old; and

13709 (B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

13709 (iii)

13710 (A) who is at least 18 years old and younger than 21 years old; and

13710 (B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

13712 (56) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

13714 (57) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

13718 (58)

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(a) "Neglect" means action or inaction causing:

13719 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a
Newborn Child;

13721 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or
custodian;

13723 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence
or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

13726 (iv) a child to be at risk of being neglected or abused because another child in the same home is
neglected or abused;

13728 (v) abandonment of a child through an unregulated child custody transfer under Section 81-14-203;
or

13730 (vi) educational neglect.

(b) "Neglect" does not include:

13731 (i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not
provide specified medical treatment for a child;

13732 (ii) a health care decision made for a child by the child's parent or guardian, unless the state or other
party to a proceeding shows, by clear and convincing evidence, that the health care decision is not
reasonable and informed;

13737 (iii) a parent or guardian exercising the right described in Section 80-3-304; or

13738 (iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid
harm or unreasonable risk of harm, to engage in independent activities, including:

13741 (A) traveling to and from school, including by walking, running, or bicycling;

13742 (B) traveling to and from nearby commercial or recreational facilities;

13743 (C) engaging in outdoor play;

13744 (D) remaining in a vehicle unattended, except under the conditions described in Subsection
76-5-115(2);

13746 (E) remaining at home unattended; or

13747 (F) engaging in a similar independent activity.

13748 (59) "Neglected child" means a child who has been subjected to neglect.

13749 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer,
without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

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13752 (a) the assigned juvenile probation officer; and

13753 (b)

13754 (i) the minor; or

13754 (ii) the minor and the minor's parent, guardian, or custodian.

13755 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

13757 (a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

13759 (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

13761 (62)

13761 (a) "Parent" means, except as provided in Section 80-3-302, an individual with a parent-child relationship to a minor under Section 81-5-201.

13763 (b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.

13764 (63) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

13768 (64) "Physical abuse" means abuse that results in physical injury or damage to a child.

13769 (65)

13769 (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

13772 (b) "Probation" includes intake probation or formal probation.

13773 (66) "Prosecuting attorney" means:

13774 (a) the attorney general and any assistant attorney general;

13775 (b) any district attorney or deputy district attorney;

13776 (c) any county attorney or assistant county attorney; and

13777 (d) any other attorney authorized to commence an action on behalf of the state.

13778 (67) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

13780 (a) the day on which the shelter hearing is held under Section 80-3-301; or

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- 13781 (b) the day on which the child is returned home.
- 13782 (68) "Protective services" means expedited services that are provided:
 - 13783 (a) in response to evidence of neglect, abuse, or dependency of a child;
 - 13784 (b) to a cohabitant who is neglecting or abusing a child, in order to:
 - 13785 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and
 - 13787 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
 - 13788 (c) in cases where the child's welfare is endangered:
 - 13789 (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;
 - 13791 (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and
 - 13793 (iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:
 - 13795 (A) removal from the child's home;
 - 13796 (B) placement in substitute care; and
 - 13797 (C) petitioning the court for termination of parental rights.
- 13798 (69) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:
 - 13800 (a) the minor is permitted to remain in the minor's home; and
 - 13801 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.
- 13803 (70)
 - 13804 (a) "Related condition" means a condition that:
 - 13805 (i) is found to be closely related to intellectual disability;
 - 13805 (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;
 - 13807 (iii) is likely to continue indefinitely; and
 - 13808 (iv) constitutes a substantial limitation to the individual's ability to function in society.
 - 13809 (b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.
- 13811 (71)

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(a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

- (i) the responsibility for support;
- (ii) the right to consent to adoption;
- (iii) the right to determine the child's religious affiliation; and
- (iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

- (i) marriage;
- (ii) enlistment; and
- (iii) major medical, surgical, or psychiatric treatment.

(72) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(73) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(74) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(75) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

- (a) before disposition of an offense that is alleged to have been committed by the minor; or
- (b) under Section 80-6-704.

(76) "Serious youth offender" means an individual who:

- (a) is at least 14 years old, but under 25 years old;
- (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and
- (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

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13845 (77) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

13846 (78) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

13848 (79)

13849 (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (79)(b):

13850 (i) if committed by an individual who is 18 years old or older:

13851 (A) chronic abuse;

13852 (B) severe abuse;

13853 (C) sexual abuse;

13854 (D) sexual exploitation;

13855 (E) abandonment;

13856 (F) chronic neglect; or

13857 (G) severe neglect; or

13858 (ii) if committed by an individual who is under 18 years old:

13859 (A) causing serious injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

13860 (B) sexual behavior with or upon another child that indicates a significant risk to other children.

13861 (b) "Severe type of child abuse or neglect" does not include:

13862 (i) the use of reasonable and necessary physical restraint by an educator in accordance with Section 53G-8-301 or Section 76-2-401;

13863 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

13864 (iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (79)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

13865 (c) Subsection (79)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

13866 (80)

13867 (a) "Sexual abuse" means:

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- (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;
- (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:
 - (A) there is an indication of force or coercion;
 - (B) the children are related, as described in Subsection (40), including siblings by marriage while the marriage exists or by adoption; or
 - (C) the act or attempted act constitutes unlawful sexual activity as described in Section 76-5-401.3.
- (iii) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:
 - (A) Title 76, Chapter 5, Part 4, Sexual Offenses;
 - (B) child bigamy, Section 76-7-101.5;
 - (C) incest, Section 76-7-102;
 - (D) voyeurism, Section 76-12-306;
 - (E) recorded or photographed voyeurism, Section 76-12-307; or
 - (F) distribution of images obtained through voyeurism, Section 76-12-308; or
- (iv) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(b) "Sexual abuse" does not include engaging in any conduct with a child that would constitute an offense described in:

- (i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator of the offense is a minor; or
- (ii) Section 76-5-417, enticing a minor.

(81) "Sexual exploitation" means knowingly:

- (a) employing, using, persuading, inducing, enticing, or coercing any child to:
 - (i) pose in the nude for the purpose of sexual arousal of any individual; or
 - (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- (b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child;

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- 13912 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 13913 (ii) engaging in sexual or simulated sexual conduct; or
- 13914 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual
exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor,
regardless of whether the individual who engages in the conduct is actually charged with, or
convicted of, the offense.
- 13918 (82) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a
disposition or transfer to another jurisdiction.
- 13920 (83) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 13921 (84) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk
assessment tools and rules established by the Division of Child and Family Services in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:
 - 13925 (a) age;
 - 13926 (b) social factors;
 - 13927 (c) emotional factors;
 - 13928 (d) sexual factors;
 - 13929 (e) intellectual factors;
 - 13930 (f) family risk factors; and
 - 13931 (g) other related considerations.
- 13932 (85) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 13933 (86) "Status offense" means an offense that would not be an offense but for the age of the offender.
- 13935 (87) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of
alcohol or other drugs or substances.
- 13937 (88) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the
evidence, and separate consideration of each allegation made or identified in the case, that abuse,
neglect, or dependency occurred.
- 13940 (89) "Substitute care" means:
 - 13941 (a) the placement of a minor in a family home, group care facility, or other placement outside the
minor's own home, either at the request of a parent or other responsible relative, or upon court order,
when it is determined that continuation of care in the minor's own home would be contrary to the
minor's welfare;

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13945 (b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

13948 (c) the licensing and supervision of a substitute care facility.

13949 (90) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

13953 (91) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

13955 (92) "Therapist" means:

13956 (a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

13959 (b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

13961 (93) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

13963 (94) "Torture" means:

13964 (a) the infliction of a serious injury upon a child in an exceptionally cruel or exceptionally depraved manner that causes the child to experience extreme physical or psychological pain or anguish; or

13967 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part of a course of conduct or over a prolonged period of time.

13969 (95) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

13970 (a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

13972 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or

13973 (c) results in the situations described in Subsections (95)(a) and (b).

13974 (96) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

13976 (97) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes

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the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

13980 (98) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

13982 (99) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

13986 (100) "Youth offender" means an individual who is:

13987 (a) at least 12 years old, but under 21 years old; and

13988 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

14064 Section 234. Section **80-3-110** is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

13993 (1) As used in this section:

13994 (a) "Cannabis" means the same as that term is defined in Section 26B-4-201.

13995 (b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

13996 (c)

13997 (i) "Chronic" means repeated or patterned.

13998 (ii) "Chronic" does not mean an isolated incident.

13999 (d) "Directions of use" means the same as that term is defined in Section 26B-4-201.

14000 (e) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.

14001 (f) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

14003 (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.

14005 (h) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

14012 (2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

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- (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;
- (b) the individual's possession or use complies with Subsection [58-37-3.7(2)] 58-37-404(2) or (3); or
- (c)
 - (i) the individual's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
 - (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26B-4-230(5).

14014 (3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

14016 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

14018 (b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

14021 (4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

14024 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection 26B-4-230(5); or

14026 (b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection [58-37-3.7(2)] 58-37-404(2) or (3).

14029 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

14033 (6)

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- (a) Except as provided in Subsection (6)(c), if an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, the individual may not be ordered to complete for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
- 14050 (b) Except as provided in Subsection (6)(c), if an individual, who is party to a proceeding under this chapter, is referred by the division or a guardian ad litem for drug testing, the individual may not be referred for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
- 14054 (c) Notwithstanding Subsections (6)(a) and (b), an individual who is party to a proceeding under this chapter:
 - 14056 (i) may be ordered by the juvenile court to submit to drug testing by means of a saliva test, if the court finds that such testing is necessary in the circumstances; or
 - 14058 (ii) may be referred by the division for drug testing by means of a saliva test if the individual consents to drug testing by means of a saliva test.
- 14134 Section 235. Section **80-3-204** is amended to read:
- 14135 **80-3-204. Protective custody of a child after a petition is filed -- Grounds.**
- 14063 (1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.
- 14067 (2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:
- 14072 (a)
 - (i) there is an imminent danger to the physical health or safety of the child; and
 - 14073 (ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;
- 14075 (b)
 - (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

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- 14077 (ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
- 14080 (c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;
- 14084 (d) the parent or guardian is unwilling to have physical custody of the child;
- 14085 (e) the child is abandoned or left without any provision for the child's support;
- 14086 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;
- 14088 (g)
 - (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
 - (ii) the whereabouts of the parent or guardian are unknown; and
 - (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 14090 (h) subject to Subsection 80-1-102(58)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- 14094 (i)
 - (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or
 - (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;
- 14099 (j) the child or another child residing in the same household has been neglected;
- 14100 (k) the child's parent:
 - (i) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 14103 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;
- 14106 (l) an infant is an abandoned infant, as defined in Section 80-4-203;

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14109 (m)

- (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to [Title 58, Chapter 37d, Clandestine Drug Lab Act] Title 76, Chapter 18, Part 5, Clandestine Drug Labs; and

14112 (ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

14114 (n) the child's welfare is otherwise endangered.

14115 (3)

- (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is *prima facie* evidence that the child cannot safely remain in the custody of the child's parent.
- (b) For purposes of Subsection (2)(c):

14121 (i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

14125 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is *prima facie* evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

14131 (4)

- (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.
- (b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.

14140 (5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

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- 14142 (a) educational neglect, truancy, or failure to comply with a court order to attend school;
- 14143 (b) mental illness or poverty of the parent or guardian;
- 14144 (c) disability of the parent or guardian, as defined in Section 57-21-2; or
- 14145 (d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.
- 14149 (6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.
- 14152 (7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 80-2a-202.
- 14154 (8)
 - (a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:
 - (i) the administration of a psychotropic medication to a child;
 - (ii) a psychiatric, psychological, or behavioral treatment for a child; or
 - (iii) a psychiatric or behavioral health evaluation of a child.
 - (b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

14238 Section 236. Section **80-3-301** is amended to read:

80-3-301. Shelter hearing -- Court considerations.

- 14166 (1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:
 - 14169 (a) removal of the child from the child's home by the division;
 - 14170 (b) placement of the child in protective custody;
 - 14171 (c) emergency placement under Subsection 80-2a-202(5);
 - 14172 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

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14174 (e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

14176 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

14178 (a) the name and address of the individual to whom the notice is directed;

14179 (b) the date, time, and place of the shelter hearing;

14180 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

14182 (d) a concise statement regarding:

14183 (i) the reasons for removal or other action of the division under Subsection (1); and

14184 (ii) the allegations and code sections under which the proceeding is instituted;

14185 (e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

14190 (f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

14194 (3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

14198 (a) the appropriate guardian ad litem; and

14199 (b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

14201 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

14203 (a) the child, unless it would be detrimental for the child;

14204 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

14206 (c) counsel for the parents, if one is requested;

14207 (d) the child's guardian ad litem;

14208 (e) the child welfare caseworker from the division who is assigned to the case; and

14209 (f) the attorney from the attorney general's office who is representing the division.

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14210 (5)

(a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel, including relevant evidence regarding harm the specific child has suffered or will suffer due to the separation or continued separation from the child's parent or guardian; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8)

(a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

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14243 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

14247 (9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

14251 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

14254 (ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

14256 (B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

14258 (C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

14261 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

14263 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

14266 (A) a parent or guardian;

14267 (B) a member of the parent's household or the guardian's household; or

14268 (C) an individual known to the parent or guardian;

14269 (v) the parent or guardian is unwilling to have physical custody of the child;

14270 (vi) the parent or guardian is unable to have physical custody of the child;

14271 (vii) the child is without any provision for the child's support;

14272 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

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14274 (ix)

(A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

14276 (B) the whereabouts of the parent or guardian are unknown; and

14277 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

14278 (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

14280 (xi)

(A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

14283 (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

14285 (xii)

(A) the child or a minor residing in the same household has been neglected; and

14287 (B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

14289 (xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to ~~Title 58, Chapter 37d, Clandestine Drug Lab Act~~ Title 76, Chapter 18, Part 5, Clandestine Drug Labs, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

14294 (xiv)

(A) the child's welfare is substantially endangered; and

14295 (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

14297 (xv) the child's parent:

14298 (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

14300 (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

14303 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

14305 (b)

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(i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

14307 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

14309 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

14311 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

14317 (10)

14319 (a)

14321 (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

14321 (ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

14325 (b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

14329 (11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

14333 (12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

14338 (13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

14340 (14)

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- (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.
- (b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.
- (15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:
 - (a) any error in the initial removal of the child;
 - (b) the failure of a party to comply with notice provisions; or
 - (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 237. Section **80-4-109** is amended to read:

80-4-109. Consideration of cannabis during proceedings.

- (1) As used in this section:
 - (a) "Cannabis" means the same as that term is defined in Section 26B-4-201.
 - (b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
 - (c)
 - (i) "Chronic" means repeated or patterned.
 - (ii) "Chronic" does not mean an isolated incident.
 - (d) "Directions of use" means the same as that term is defined in Section 26B-4-201.
 - (e) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.
 - (f) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
 - (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.
 - (h) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.
- (2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:
 - (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;
 - (b) the individual's possession or use complies with Subsection [58-37-3.7(2)] 58-37-404(2) or (3); or

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14374 (c)

- (i) the individual's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
- (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26B-4-231(5).

14379 (3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:

- (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or
- (b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

14386 (4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

- (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection 26B-4-231(5); or
- (b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection [58-37-3.7(2)] 58-37-404(2) or (3).

14397 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

14476 Section 238. Section **80-6-707** is amended to read:

14477 **80-6-707. Suspension of driving privileges.**

14404 (1) This section applies to a minor who:

14405

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- (a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and
- (b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2)

- (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:
 - (i) suspend the minor's driving privileges; and
 - (ii) take possession of the minor's driver license.
- (b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.
- (c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):
 - (i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and
 - (ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a)

- (i) the violation is the minor's first violation of:
 - (A) Section 32B-4-409;
 - (B) Section 32B-4-410;
 - (C) Section [58-37-8] 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211, 76-18-212, 76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219;
 - (D) [Title 58, Chapter 37a, Utah Drug Paraphernalia Act] Title 76, Chapter 18, Part 3, Offenses Concerning Drug Paraphernalia;
 - (E) [Title 58, Chapter 37b, Imitation Controlled Substances Act] Title 76, Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances;
 - (F) Subsection 76-5-102.1(2)(b);
 - (G) Subsection 76-5-207(2)(b); [or]
 - (H) Subsection 76-9-110(2); or
 - (I) an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in Subsections (3)(a)(i)(A) through (H); and

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14434 (ii)

(A) the minor completes an educational series as defined in Section 41-6a-501; or

14436 (B) the minor demonstrates substantial progress in substance use disorder treatment; or

14438 (b)

(i) the violation is the minor's second or subsequent violation of:

14439 (A) Section 32B-4-409;

14440 (B) Section 32B-4-410;

14441 (C) Section [58-37-8] 76-18-204, 76-18-207, 76-18-208, 76-18-209, 76-18-210, 76-18-211, 76-18-212, 76-18-213, 76-18-214, 76-18-215, 76-18-216, 76-18-217, 76-18-218, or 76-18-219;

14444 (D) [Title 58, Chapter 37a, Utah Drug Paraphernalia Act] Title 76, Chapter 18, Part 3, Offenses Concerning Drug Paraphernalia;

14446 (E) [Title 58, Chapter 37b, Imitation Controlled Substances Act] Title 76, Chapter 18, Part 4, Offenses Concerning Imitation Controlled Substances;

14448 (F) Subsection 76-5-102.1(2)(b);

14449 (G) Subsection 76-5-207(2)(b);[-{F}] or

14450 (H) Subsection 76-9-110(2); or

14451 (I) an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in Subsections (3)(b)(i)(A) through (H);

14454 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

14456 (iii)

(A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or

14460 (B) the minor is under 18 years old and the minor's parent or guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

14465 (4)

(a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

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14467 (i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

14469 (ii) the minor's driving privileges will be suspended:

14470 (A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

14472 (B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

14474 (b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

14476 (i) the violation is the minor's first violation of Section 32B-4-411; and

14477 (ii)

14479 (A) the minor completes an educational series as defined in Section 41-6a-501; or

14481 (B) the minor demonstrates substantial progress in substance use disorder treatment.

14483 (c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:

14484 (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

14486 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

14486 (iii)

14486 (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

14490 (B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).

14495 (5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

14576 Section 239. Section **80-6-708** is amended to read:

14577 **80-6-708. Service in National Guard.**

If a minor is adjudicated under Section 80-6-701, the minor may be given a choice by the juvenile court to serve in the National Guard in lieu of other sanctions described in this part

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if:

14504 (1) the minor meets the current entrance qualifications for service in the National Guard as determined
14505 by a recruiter, whose determination is final;

14506 (2) the offense:

14507 (a) would be a felony if committed by an adult;

14508 (b) is a violation of [Title 58, Chapter 37, Utah Controlled Substances Act] Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances, or an offense described in a statute previously in effect in this state that is the same or substantially similar to a violation of an offense described in Title 58, Chapter 37, Controlled Substances, or Title 76, Chapter 18, Part 2, Offenses Concerning Controlled Substances; or

14511 (c) was committed with a weapon; and

14512 (3) the juvenile court retains jurisdiction over the minor's case under conditions set by the juvenile court
14513 and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

14595 Section 240. Section **81-9-204** is amended to read:

81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.

14596 (1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue,
14597 the court shall consider the best interests of the minor child in determining any form of custody and
14598 parent-time.

14599 (2) The court shall determine whether an order for custody or parent-time is in the best interests of the
14600 minor child by a preponderance of the evidence.

14601 (3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

14602 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical
14603 abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

14604 (b) whether the parent has intentionally exposed the minor child to:

14605 (i) pornography; or

14606 (ii) material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-5c-101;
14607 and

14608 (c) whether custody and parent-time would endanger the minor child's health or physical or
14609 psychological safety.

14610 (4) In determining the form of custody and parent-time that is in the best interests of the minor child,
14611 the court may consider, among other factors the court finds relevant, the following for each parent:

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- 14537 (a) evidence of psychological maltreatment;
- 14538 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:
 - 14540 (i) physical needs;
 - 14541 (ii) emotional needs;
 - 14542 (iii) educational needs;
 - 14543 (iv) medical needs; and
 - 14544 (v) any special needs;
- 14545 (c) the parent's capacity and willingness to function as a parent, including:
 - 14546 (i) parenting skills;
 - 14547 (ii) co-parenting skills, including:
 - 14548 (A) ability to appropriately communicate with the other parent;
 - 14549 (B) ability to encourage the sharing of love and affection; and
 - 14550 (C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and
 - 14554 (iii) ability to provide personal care rather than surrogate care;
 - 14555 (d) the past conduct and demonstrated moral character of the parent as described in Subsection (9);
 - 14557 (e) the emotional stability of the parent;
 - 14558 (f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;
 - 14560 (g) the parent's reason for having relinquished custody or parent-time in the past;
 - 14561 (h) duration and depth of desire for custody or parent-time;
 - 14562 (i) the parent's religious compatibility with the minor child;
 - 14563 (j) the parent's financial responsibility;
 - 14564 (k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;
 - 14566 (l) who has been the primary caretaker of the minor child;
 - 14567 (m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;
 - 14569 (n) the relative benefit of keeping siblings together;

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- 14570 (o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;
- 14572 (p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and
- 14574 (q) any other factor the court finds relevant.
- 14575 (5)
 - (a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.
- 14579 (b)
 - (i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.
 - (ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.
- 14585 (c)
 - (i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the interview shall be conducted by the court in camera.
 - (ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.
- 14590 (6)
 - (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.
 - (b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:
 - (i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and
- 14599

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- (ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.
- 14602 (c) Nothing in this section may be construed to apply to adoption proceedings under Chapter 13, Adoption.
- 14604 (7) This section does not establish:
 - 14605 (a) a preference for either parent solely because of the gender of the parent; or
 - 14606 (b) a preference for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the minor child.
- 14609 (8) When an issue before the court involves custodial responsibility in the event of a deployment of a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 81-10-306 through 81-10-309.
- 14613 (9) In considering the past conduct and demonstrated moral standards of each party under Subsection (4)(d) or any other factor a court finds relevant, the court may not:
 - 14615 (a)
 - (i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection [58-37-3.7(2)]58-37-404(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or
 - 14622 (ii) discriminate against a parent because of the parent's status as a:
 - 14623 (A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;
 - 14625 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
 - 14626 (C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or
 - 14628 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
 - 14630 (b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:
 - 14632 (i) assertion that the minor child's gender identity is different from the minor child's biological sex;

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14634 (ii) practice of having or expressing a different gender identity than the minor child's biological sex; or

14636 (iii) sexual orientation.

14637 (10)

14639 (a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.

14641 (b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.

14643 (c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

14644 (d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.

14647 (11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:

14649 (a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;

14651 (b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and

14654 (c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

14656 (12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:

14659 (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or

14662 (b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child.

14664 (13) A denial of custody or parent-time under Subsection (12) does not:

14665 (a) terminate the parental rights of the parent denied parent-time or custody; or

14666 (b) affect the obligation of the convicted parent to financially support the minor child.

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14747 Section 241. **Repealer.**

This Bill Repeals:

14748 This bill repeals:

14749 Section **58-37-1, Short title.**

14750 Section **58-37-8, Prohibited acts -- Penalties.**

14751 Section **58-37a-1, Short title.**

14752 Section **58-37a-2, Purpose.**

14753 Section **58-37a-7, Sentencing requirements for minors.**

14754 Section **58-37b-1, Short title.**

14755 Section **58-37b-9, Sentencing requirements for minors.**

14756 Section **58-37c-1, Short title.**

14757 Section **58-37c-2, Purpose.**

14758 Section **58-37c-16, Civil penalties.**

14759 Section **58-37d-1, Short title.**

14760 Section **58-37d-5, Prohibited acts -- First degree felony.**

14761 Section **58-37d-8, Applicability of Title 76 prosecutions under this chapter.**

14762 Section **58-37e-1, Title.**

14763 Section 242. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

14765 Section 243. **Coordinating H.B. 301 with S.B. 117.**

If H.B. 301, Drug Recodification, and S.B. 117, Occupational and Professional Licensing Amendments, both pass and become law, the Legislature intends that, on July 1, 2026, the amendments to Subsections 58-37-205(2)(a) and (2)(c) (renumbered from Section 58-37-10) in H.B. 301 supersede the amendments to Subsections 58-37-10(2)(a) and (2)(c) in S.B. 117.

14771 Section 244. **Coordinating H.B. 301 with other 2026 General Session legislation.**

The Legislature intends that all statutory numbering and renumbering in H.B. 301, Drug Recodification, be reflected in any new language added to the Utah Code by legislation that passes in the 2026 General Session and becomes law.