

HB0459S01 compared with HB0459

{Omitted text} shows text that was in HB0459 but was omitted in HB0459S0

inserted text shows text that was not in HB0459 but was inserted into HB0459S01

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LONG TITLE

General Description:

This bill amends evidence and reporting procedures that occur after a sexual offense is committed.

Highlighted Provisions:

This bill:

- defines terms;
- amends injury reporting requirements for a health care provider for certain sexual offenses;
- allows certain victims of a sexual offense the option of:
 - receiving medical treatment, without any report of the sexual offense to law enforcement;
 - with or without medical treatment, providing either a full report or a limited report of the sexual offense to law enforcement;
 - allowing evidence collection for the sexual offense, including a sexual assault medical forensic examination that collects a sexual assault kit; and
 - designating the sexual assault kit as either an unrestricted kit with full disclosure and processing or as a restricted kit that can either be stored without testing or subjected to limited testing;

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- 22 ▶ requires limited victim information to be shared with law enforcement with a restricted kit;
- 24 ▶ requires that payment of costs for medical treatment and evidence collection for a victim of a sexual offense be the same regardless of whether the victim opts to make a full or limited report to law enforcement or if the victim opts only for medical treatment without reporting the sexual offense to law enforcement;
- 28 ▶ requires the Bureau of Forensic Services to conduct testing of certain restricted kits;
- 29 ▶ requires the Department of Public Safety's statewide sexual assault kit tracking system to provide limited access to a victim who has submitted a restricted kit for forensic testing to track the kit's processing status;
- 32 ▶ establishes procedures for contacting a victim through a victim advocate to request the victim's consent to certain disclosures if a law enforcement agency determines that:
 - 34 • there may be a serial sexual offender in a particular area; and
 - 35 • evidence in the victim's restricted kit may provide relevant evidence in the investigation;
- 37 ▶ revises and reorganizes statutory procedures and requirements that occur after certain sexual offenses are committed;
- 39 ▶ **{amends provisions to provide for a reparations award for a victim of a sexual assault under certain circumstances;}**
- 39 ▶ **amends the definition of "medical examination" for the Utah Office for Victims of Crime to include certain treatments, testing, and medications for a victim;**
- 41 ▶ amends the definition of "sexual offense" for certain sexual offense procedures and victim rights provisions;
- 43 ▶ inserts the former definition of "sexual offense" into statutes that had relied on the definition of "sexual offense" that this bill amends; and
- 45 ▶ makes technical and conforming changes.

46 Money Appropriated in this Bill:

47 None

48 Other Special Clauses:

49 None

50 Utah Code Sections Affected:

51 AMENDS:

52 **26B-8-232** , as renumbered and amended by Laws of Utah 2023, Chapter 306

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53 **53-10-904** , as renumbered and amended by Laws of Utah 2022, Chapter 430
54 **53-10-909** , as renumbered and amended by Laws of Utah 2022, Chapter 430
55 **53-10-910** , as last amended by Laws of Utah 2025, Chapter 271
56 **63M-7-502** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9
57 **{63M-7-509, as last amended by Laws of Utah 2025, First Special Session, Chapter 11}**
58 **77-11c-101** , as last amended by Laws of Utah 2025, Chapter 291
59 **77-11c-202** , as last amended by Laws of Utah 2024, Chapters 150, 164
60 **77-11c-302** , as enacted by Laws of Utah 2024, Chapter 150
61 **77-11c-401** , as last amended by Laws of Utah 2024, Chapters 150, 164
62 **77-37-2** , as last amended by Laws of Utah 2025, Chapter 173
63 **77-37-3** , as last amended by Laws of Utah 2025, First Special Session, Chapter 11
64 **78A-6-104** , as last amended by Laws of Utah 2025, Chapter 426
65 **80-4-301** , as last amended by Laws of Utah 2024, Chapters 164, 293
66 **81-9-204** , as last amended by Laws of Utah 2025, Chapter 426
67 **81-9-305** , as last amended by Laws of Utah 2025, Chapter 426

ENACTS:

53-10-903.1 , Utah Code Annotated 1953
53-10-906.1 , Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53-10-901.1 , (Renumbered from 53-10-902, as last amended by Laws of Utah 2024, Chapter 164)
53-10-902.1 , (Renumbered from 53-10-906, as last amended by Laws of Utah 2023, Chapter 99)
53-10-904.1 , (Renumbered from 53-10-903, as renumbered and amended by Laws of Utah 2022, Chapter 430)
53-10-905.1 , (Renumbered from 53-10-907, as renumbered and amended by Laws of Utah 2022, Chapter 430)
53-10-911 , (Renumbered from 53-10-905, as repealed and reenacted by Laws of Utah 2024, Chapter 164)

REPEALS:

53-10-901 , as renumbered and amended by Laws of Utah 2022, Chapter 430

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

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85 Section 1. Section **26B-8-232** is amended to read:

86 **26B-8-232. Injury reporting requirements by health care provider -- Contents of report --**

89 **Penalties.**

90 (1) As used in this section:

91 (a)

92 (i) "Health care provider" means any person, firm, corporation, or association [which] that furnishes treatment or care to persons who have suffered bodily injury[,-and-] .

93 (ii) Health care provider includes hospitals, clinics, podiatrists, dentists and dental hygienists, nurses, nurse practitioners, physicians and physicians' assistants, osteopathic physicians, naturopathic practitioners, chiropractors, acupuncturists, paramedics, and emergency medical technicians.

97 (b) "Injury" does not include any psychological or physical condition brought about solely through the voluntary administration of prescribed controlled substances.

99 (c) "Law enforcement agency" means the municipal or county law enforcement agency:

100 (i) having jurisdiction over the location where the injury occurred; or

101 (ii) if the reporting health care provider is unable to identify or contact the law enforcement agency with jurisdiction over the injury, "law enforcement agency" means the agency nearest to the location of the reporting health care provider.

104 (d) "Rape crisis and services center" means the same as that term is defined in Section 77-38-203.

105 (e) "Report to a law enforcement agency" means to report, by telephone or other spoken communication, the facts known regarding an injury subject to reporting under [Section 26B-8-232] this section to the dispatch desk or other staff person designated by the law enforcement agency to receive reports from the public.

108 (e){(f)} "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

109 (f){(g)} "Sexual offense" means the same as that term is defined in Section 77-37-2.

110 (g){(h)} "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

111 (2)

112 (a) [Any] Except as provided in Subsection (3), a health care provider who treats or cares for any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute of this state, shall immediately report to a law enforcement agency the facts regarding the injury.

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116 (b) [The report] A report described in Subsection (2)(a) shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.

120 (3)

(a) For a sexual offense that occurs on or after January 1, 2027, unless the sexual offense is subject to mandatory reporting under Subsection (3)(c), a victim may opt to, in accordance with Section 53-10-903.1:

(i) receive only medical treatment for the sexual offense, without a health care provider making a report to a law enforcement agency; or

(ii) receive or reject medical treatment and permit a health care provider to:

(A) provide a full report of the sexual offense to a law enforcement agency under Subsection (2); or

(B) provide a limited report of the sexual offense to a law enforcement agency, which shall include the information described in Subsection (3)(b).

(b) A limited report under Subsection (3)(a)(ii)(B) shall include:

(i) the date of the victim's interaction with the health care provider;

(ii) the health care provider's contact information;

(iii) the gender of the victim;

(iv) the age band of the victim, selected from the following:

(A) 18 to 25 years old;

(B) 26 to 35 years old;

(C) 36 to 45 years old;

(D) 46 to 55 years old;

(E) 56 to 64 years old; or

(F) over 65 years old; and

(v) if known, the zip code of the offense.

(c) A sexual offense is subject to mandatory reporting to a law enforcement agency if:

(i) the victim is:

(A) 17 years old or younger; or

(B) a vulnerable adult; or

(ii) the victim sustained a serious bodily injury from the sexual offense.

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(d) A health care provider who assists a victim under Subsection (3)(a)(i) or (3)(a)(ii)(B) shall {complete a questionnaire provided by } refer the {Utah Office for Victims of Crime under Subsection 63M-7-509(3)(a)} victim to the closest rape crisis and services center.

150 [(3)] (4) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.

152 [(4)] (5) A person may not incur any civil or criminal liability as a result of making any report required by this section.

154 [(5)] (6) A health care provider who has personal knowledge that the report of a wound or injury has been made in compliance with this section is under no further obligation to make a report regarding that wound or injury under this section.

157 [(6)] (7) [Any] A health care provider who intentionally or knowingly violates any provision of this section is guilty of a class B misdemeanor.

159 Section 2. Section **53-10-901.1** is renumbered and amended to read:

161 **[53-10-902] 53-10-901.1. Definitions.**

As used in this part:

163 (1) "Bureau" means the Bureau of Forensic Services created in Section 53-10-401.

164 (2) "Collecting facility" means a hospital, health care facility, or other facility that performs sexual assault examinations.

166 (3) "Rape crisis and services center" means the same as that term is defined in Section 77-38-203.

166 (2) "Department" means the Department of Public Safety.]

167 [(3)] (4) "Restricted kit" means a sexual assault kit:

168 (a) that is collected by a collecting facility; [and]

169 (b) for which the victim:

170 (i) opts to provide a limited report to law enforcement regarding the sexual offense that does not include the victim's name or other identifying information; and

172 (ii) selects whether to have the victim's kit:

173 (A) stored by a law enforcement agency without any forensic testing; or

174 (B) subjected to forensic testing by the bureau and then stored by a law enforcement agency, without having the results of the forensic testing used for investigative purposes or compared to DNA profiles in DNA databases; and

177 (c) for which the associated sexual assault examination form is:

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178 (i) not shared with law enforcement; and

179 (ii) is shared with the bureau, if the victim consents to forensic testing by the bureau.

180 [(b) ~~for which a victim who is 18 years old or older at the time of the sexual assault kit evidence collection declines:~~]

182 [(i) ~~to have his or her sexual assault kit processed; and~~]

183 [(ii) ~~to have the sexual assault examination form shared with any entity outside of the collection facility.~~]

185 [(4)] (5) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

186 (5){(6)} "Sexual assault kit" means a package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of a sexual offense.

189 [(5)] (6){(7)} "Sexual offense" means the same as that term is defined in Section 77-37-2.

190 (7){(8)} "Tracking system" means the statewide sexual assault kit tracking system described in Section 53-10-905.1.

192 [(6)] (8){(9)} "Trauma-informed, victim-centered" means policies, procedures, programs, and practices that:

194 (a) have demonstrated an ability to minimize retraumatization associated with the criminal justice process by recognizing the presence of trauma symptoms and acknowledging the role that trauma has played in the life of a victim; and

197 (b) encourage law enforcement officers to interact with victims with compassion and sensitivity in a nonjudgmental manner.

199 (9){(10)} "Unrestricted kit" means a sexual assault kit:

200 (a) that is not a restricted kit; and

201 (b) for which the associated sexual assault examination form is shared with law enforcement and the bureau.

203 [(7)] (10){(11)} "Victim" means an individual against whom a sexual offense has been committed or allegedly been committed.

205 (11){(12)} "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

208 Section 3. Section **53-10-902.1** is renumbered and amended to read:

210 **[53-10-906] 53-10-902.1. Victim notification of rights.**

209 [(4)] Collecting facility personnel who conduct sexual assault examinations shall inform each victim of a sexual [assault] offense of:

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211 [({a}) (1) available services for treatment of sexually transmitted infections, pregnancy, and other
212 medical and psychiatric conditions;

213 [({b}) (2) available crisis intervention or other mental health services provided;

214 [({e}) (3) the option to receive prophylactic medication to prevent sexually transmitted infections and
215 pregnancy; and

216 [({d}) ~~the right to determine:~~]

217 [({i}) ~~whether to provide a personal statement about the sexual assault to law enforcement; and]~~

218 [({ii}) ~~if law enforcement should have access to any paperwork from the forensic examination; and]~~

219 [({e}) (4) the victim's rights as provided in Section 77-37-3.

220 [({2}) ~~The collecting facility shall notify law enforcement as soon as practicable if the victim of a sexual~~
221 ~~assault decides to interview and discuss the assault with law enforcement.]~~

222 [({3}) ~~If a victim of a sexual assault declines to provide a personal statement about the sexual assault to~~
223 ~~law enforcement, the collecting facility shall provide a written notice to the victim that contains the~~
224 ~~following information:~~]

225 [({a}) ~~where the sexual assault kit will be stored;]~~

226 [({b}) ~~notice that the victim may choose to contact law enforcement any time after declining to provide a~~
227 ~~personal statement;]~~

228 [({e}) ~~the name, phone number, and email address of the law enforcement agency having jurisdiction;~~
229 ~~and]~~

230 [({d}) ~~the name and phone number of a local rape crisis and services center.]~~

231 Section 4. Section 4 is enacted to read:

232 **53-10-903.1. Reporting of a sexual offense -- Collection of evidence -- Procedures.**

233 (1)

234 (a) In accordance with Section 26B-8-232, a sexual offense is subject to mandatory reporting to law
235 enforcement by a collecting facility if:

236 (i) the victim is:

237 (A) 17 years old or younger; or

238 (B) a vulnerable adult; or

239 (ii) the victim sustained a serious bodily injury from the sexual offense.

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(b) A collecting facility that collects evidence in a sexual assault kit during a sexual assault medical forensic examination of a victim of a sexual offense that is subject to mandatory reporting shall designate the victim's sexual assault kit as an unrestricted kit.

245 (2) In accordance with Section 26B-8-232, for a sexual offense that occurs on or after January 1, 2027, a victim of a sexual offense that is not subject to mandatory reporting under Subsection (1) may opt to:

248 (a) receive medical treatment for the sexual offense, without any report made to law enforcement; or

250 (b) receive or reject medical treatment and:

251 (i) provide a full report of the sexual offense to law enforcement, with evidence collected in a sexual assault kit designated as an unrestricted kit; or

253 (ii) provide a limited report to law enforcement under Subsection (3), with evidence collected in a sexual assault kit designated as a restricted kit.

255 (3) If a victim opts to provide a limited report to law enforcement under Subsection (2)(b)(ii):

257 (a) the collecting facility shall:

258 (i) collect evidence in a sexual assault kit and designate the kit as a restricted kit;

259 (ii) contact the law enforcement agency with jurisdiction over the location of the offense, if known, or the collection facility, if the location of the offense is unknown, and request a case number for the restricted kit, providing to law enforcement only the information described in Subsection (3)(c); and

263 (iii) ensure:

264 (A) the date of evidence collection, the law enforcement case number, and the name of the collecting facility are included on the restricted kit; and

266 (B) the victim's name or other identifying information are not included on the restricted kit;

268 (b) the victim shall decide whether to have the victim's restricted kit:

269 (i) stored, without any testing, at the law enforcement agency that supplied the restricted kit's case number; or

271 (ii) submitted to the bureau for forensic testing and then stored as described in Subsection (3)(b)(i), without having the results of the testing:

273 (A) used for investigative purposes; or

274 (B) compared to DNA profiles in DNA databases; and

275 (c) the limited report to law enforcement under Subsection (3)(a)(ii) shall include:

276 (i) the date of the victim's evidence collection;

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- 277 (ii) the names of the collecting facility and treating personnel;
- 278 (iii) the gender of the victim;
- 279 (iv) the age band of the victim, selected from the following:
- 280 (A) 18 to 25 years old;
- 281 (B) 26 to 35 years old;
- 282 (C) 36 to 45 years old;
- 283 (D) 46 to 55 years old;
- 284 (E) 56 to 64 years old; or
- 285 (F) over 65 years old; and
- 286 (v) if known, the zip code of the offense.

287 (4) A collecting facility shall provide the victim of a restricted kit with:

- 288 (a) the case number associated with the victim's restricted kit and the name and contact information for the law enforcement agency that provided the case number;
- 290 (b) {confidential victim advocacy} contact information for the closest rape crisis and services center;
- 291 (c) methods for fully reporting the sexual offense to law enforcement if the victim decides to do so at a later time, which will cause the restricted kit to be processed as an unrestricted kit;
- 294 (d) information regarding potential future contact from a victim advocate if there is reason to believe that the evidence from the victim's restricted kit may be linked to a serial sexual offender; and
- 297 (e) if the victim has consented to testing of the restricted kit under Subsection (3)(b)(ii), information on how to access the tracking system so that the victim may follow the processing status of the victim's restricted kit.

300 (5)

- (a) A victim who consents only to medical treatment under Subsection (2)(a) or to a limited report to law enforcement under Subsection (3) may receive recommended medical treatment and evidence collection for the sexual offense in the same manner as a victim who has consented to a full report of the sexual offense to law enforcement.

305 (b)

- (i) A victim who receives medical treatment and evidence collection under Subsection (5)(a) is entitled to receive the medical treatment and evidence collection without charge to the victim to the same extent that the medical treatment and evidence collection would be provided to a victim who consents to a full report of the sexual offense to law enforcement.

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310 (ii) Charges described in Subsection (5)(b)(i) include charges for evidence testing and retention.
312 {⑥ {A collecting facility that assists a victim under Subsection (2)(a) or (3) shall complete a
questionnaire provided by the Utah Office for Victims of Crime under Subsection 63M-7-509(3)
(a).} } }

314 Section 5. Section **53-10-904** is amended to read:

315 **53-10-904. Sexual assault kit processing -- Restricted kits.**

317 (1) Unless the health care provider designates a sexual assault kit as a restricted kit, the collecting facility shall enter the required victim information into the [statewide sexual assault kit tracking system, defined in Section 53-10-907,] tracking system within 24 hours of performing a sexual assault examination.

321 (2) A [restricted kit] sexual assault kit may only be designated as a restricted kit:
322 (a) by a health care provider; [and]
323 (b) at the time of collection; and
324 (c) in accordance with Section 53-10-903.1.

325 (3) Each sexual assault kit collected by medical personnel shall be taken into custody by a law enforcement agency as soon as possible and within one business day of notice from the collecting facility.

328 (4) The law enforcement agency that receives a sexual assault kit shall enter the required information into the [statewide sexual assault kit tracking system, provided in Section 53-10-907,] tracking system within five business days of receiving a sexual assault kit from a collecting facility.

332 (5) [Each sexual assault kit received by a] A law enforcement agency that receives a sexual assault kit from a collecting facility that relates to an incident that occurred outside of the jurisdiction of the law enforcement agency shall [be transferred] transfer the sexual assault kit to the law enforcement agency with jurisdiction over the incident within 10 days of learning that [another] the other law enforcement agency has jurisdiction.

337 (6)
341 (a) Except [for restricted kits] as provided in Subsection (6)(b), each sexual assault kit and restricted kit shall be submitted to the [Utah Bureau of Forensic Services] bureau as soon as possible, but no later than 30 days after receipt by a law enforcement agency.
342 (b) [Restricted kits may not be submitted to the Utah Bureau of Forensic Services.]

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[~~(e) Restricted kits shall be maintained by the law enforcement agency with jurisdiction, in accordance with the provisions of this part.~~]

344 [~~(d) A restricted kit may be changed to an unrestricted kit if] A law enforcement agency shall store a restricted kit for which the victim has not permitted forensic testing by the bureau unless the victim later informs the designated law enforcement agency that [he or she] the victim wants to have the sexual assault kit processed and agrees to release of the sexual assault examination form associated with the sexual assault kit.~~

349 [~~(c) [Once a victim indicates that he or she wants the sexual assault kit processed:]~~

350 [~~(i) the kit may no longer be classified as restricted; and]~~

351 [~~(ii) the kit shall be transmitted to the Utah Bureau of Forensic Services] After a law enforcement agency has received a victim's notification under Subsection (6)(b), the law enforcement agency shall transmit the victim's sexual assault kit to the bureau as soon as possible, but no later than 30 days after the [victim chooses to unrestrict his or her kit with law enforcement] day on which the victim notifies the law enforcement agency under Subsection (6)(b).~~

357 (7) If available, for an unrestricted kit, a suspect standard or a consensual partner elimination standard shall be submitted to the [Utah Bureau of Forensic Services] bureau:

359 (a) with the sexual assault kit, if available, at the time the sexual assault kit is submitted; or

361 (b) as soon as possible, but no later than 30 days [from the date] after the day on which the kit was obtained by the law enforcement agency, if not obtained until after the sexual assault kit is submitted.

364 (8)

(a) For a restricted kit for which the victim has consented to limited testing under Subsection 53-10-903.1(3)(b)(ii), the bureau shall conduct the same forensic testing as an unrestricted kit but may not:

(i) compare evidence obtained in the restricted kit to DNA profiles in DNA databases; or

(ii) provide the victim's name or other identifying information with the results of the testing except as described in Subsection (8)(c).

371 (b) The bureau shall:

372 (i) update the status of the testing described in Subsection (8)(a) in the tracking system, including:

374 (A) if the kit has been submitted to the bureau;

375 (B) if the kit analysis is in process; and

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376 (C) if the kit analysis is completed; and
377 (ii) once the limited testing is complete, transfer the restricted kit to the appropriate law enforcement
agency for storage.
379 (c) Once a victim has consented to a full report of the sexual offense to law enforcement, the bureau
may treat the victim's restricted kit as an unrestricted kit, including comparing evidence obtained in
the restricted kit to DNA profiles in DNA databases.

382 [(8)] (9) Failure to meet a deadline established in this part or as part of any rules established by the department is not a basis for dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

384 Section 6. Section **53-10-904.1** is renumbered and amended to read:

386 **[53-10-903] 53-10-904.1. All sexual assault kits to be submitted.**

388 (1) Except as provided in [Subsection 53-10-904(5)] Section 53-10-904, beginning July 1, 2018, all sexual assault kits received by law enforcement agencies shall be submitted to the [Utah Bureau of Forensic Services] bureau in accordance with the provisions of this part.

392 (2) [The Utah Bureau of Forensic Services] Subject to Section 53-10-904, the bureau shall test all sexual assault kits that the bureau receives with the goal of developing autosomal DNA profiles that are eligible for entry into the Combined DNA Index System.

395 (3)
(a) The testing of all sexual assault kits shall be completed within a specified amount of time, as determined by administrative rule consistent with the provisions of this part.
398 (b) The ability of the [Utah Bureau of Forensic Services] bureau to meet the established time frames may be dependent upon the following factors:
400 (i) the number of sexual assault kits that the [Utah Bureau of Forensic Services] bureau receives;
402 (ii) the technology available and improved testing methods;
403 (iii) fully trained and dedicated staff to meet the full workload needs of the [Utah Bureau of Forensic Services] bureau; and
405 (iv) the number of lab requests received relating to other crime categories.

405 Section 7. Section **53-10-905.1** is renumbered and amended to read:

407 **[53-10-907] 53-10-905.1. Statewide sexual assault kit tracking system.**

409 (1) The department shall develop and implement a statewide tracking system that contains the following information[-] :

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411 (a) subject to Section 53-10-904, for all sexual assault kits collected by law enforcement:

412 [(a) (i) the submission status of sexual assault kits by law enforcement to the [Utah Bureau of Forensic
413 Services] bureau;

414 [(b) (ii) notification by the [Utah Bureau of Forensic Services] bureau to law enforcement of DNA
415 analysis findings; and

416 [(c) (iii) the storage location of sexual assault kits[.] ; and

417 (b) for a restricted kit that has been submitted for testing under Section 53-10-904, a method for the
418 victim to track the processing status of the victim's restricted kit.

419 (2) The tracking system shall include a secure electronic access that allows the submitting agency, collecting facility, department, and a victim, or [his or her] the victim's designee, to access or receive information, provided that the disclosure does not impede or compromise an active investigation, about the:

420 (a) lab submission status;

421 (b) DNA analysis findings provided to law enforcement; [and] or

422 (c) storage location of a sexual assault kit that was gathered from that victim.

423 Section 8. Section **8** is enacted to read:

424 **53-10-906.1. Contact option after a limited report of a sexual offense to law enforcement.**

425 (1) As used in this section, "criminal justice system victim advocate" means the same as that term is
426 defined in Section 77-38-403.

427 (2) A law enforcement agency may proceed with the procedure described in Subsection (3) if the law
428 enforcement agency determines there is a reasonable likelihood that:

429 (a) there may be an individual who is committing a number of sexual offenses in a particular area; and

430 (b) evidence from a non-victim individual that was collected in a restricted kit may provide relevant
431 evidence in the investigation described in Subsection (2)(a).

432 (3) After making a determination described in Subsection (2), a supervisory-level officer of the law
433 enforcement agency shall direct a criminal justice system victim advocate to initiate contact with the
434 victim as described in Subsection (4).

435 (4) Upon notification from a law enforcement agency under Subsection (3), a criminal justice system
436 victim advocate shall:

437 (a) contact the collecting facility that collected the victim's restricted kit;

438 (b) obtain the victim's contact information; and

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444 (c) contact the victim as described in Subsection (5).

445 (5) A criminal justice system victim advocate who contacts a victim under Subsection (4) shall provide
the victim with:

446 (a) a disclosure that information shared with the criminal justice system victim advocate is not
confidential;

448 (b) information, including contact information, for accessing confidential victim advocates at a local
rape crisis and services center;

447 (a){(c)} information regarding the law enforcement agency's request described in Subsection (2); and

448 (b){(d)} options for the victim, including:

449 (i) declining to participate; and

450 (ii) agreeing to participate and changing the victim's restricted kit to an unrestricted kit, which would
provide the victim's consent to:

452 (A) have the law enforcement agency receive the victim's name and contact information and to contact
the victim; and

454 (B) have any eligible DNA profiles developed from the victim's restricted kit compared to DNA
profiles in DNA databases, released to law enforcement, and potentially used in a criminal
investigation.

461 Section 9. Section **53-10-909** is amended to read:

462 **53-10-909. Rulemaking authority.**

After consultation with the [Utah Bureau of Forensic Services] bureau and in
accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department
shall make rules, consistent with this part, regarding:

462 (1) the procedures for the submission and testing of all sexual assault kits collected by law enforcement
and prosecutorial agencies in the state;

464 (2) the information and evidence that is required to be submitted as part of each sexual assault kit
submission; and

466 (3) goals for the completion of analysis and classification of all sexual assault kit submissions.

472 Section 10. Section **53-10-910** is amended to read:

473 **53-10-910. Reporting requirement.**

The [Department of Public Safety and the Utah Bureau of Forensic Services] department
and bureau shall report by July 31 of each year to the Law Enforcement and Criminal Justice

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Interim Committee and the Criminal Justice Appropriations Subcommittee regarding:

- 473 (1) the timelines set for testing all sexual assault kits submitted to the [Utah Bureau of Forensic Services] bureau as provided in Subsection [53-10-903(2)] 53-10-904.1(2);
- 475 (2) the goals established in Section 53-10-909;
- 476 (3) the status of meeting those goals;
- 477 (4) the number of sexual assault kits that are sent to the [Utah Bureau of Forensic Services for testing;] bureau;
- 479 (5) the number of restricted kits held by law enforcement;
- 480 (6) the number of sexual assault kits that are not processed in accordance with the timelines established in this part; and
- 482 (7) future appropriations requests that will ensure that all DNA cases can be processed according to the timelines established by this part.

488 Section 11. Section **53-10-911** is renumbered and amended to read:

[53-10-905] 53-10-911. Sexual assault kit retention and disposal -- Notification.

- 487 (1) As used in this section:
 - 488 (a) "Agency" means the same as that term is defined in Section 77-11a-101.
 - 489 (b) "Agency" includes an evidence collecting or retaining entity as defined in Section 77-11c-101.
- 491 (2) An agency with custody of a sexual assault kit, including a restricted kit, shall preserve the sexual assault kit in accordance with Title 77, Chapter 11c, Retention of Evidence.
- 493 (3) An agency shall send a notice to a victim that the agency intends to dispose of a sexual assault kit if:
 - 495 (a) the agency intends to dispose of the sexual assault kit before the applicable time period described in Section 77-11c-201, 77-11c-301, or 77-11c-401 expires; and
 - 497 (b) the victim provided a written request to the agency investigating the sexual offense that the victim receive notice of when the agency intends to dispose of the sexual assault kit.
- 500 (4) An agency shall send a notice of intent to dispose of a sexual assault kit to the victim:
 - 501 (a) at least 180 days before the day on which the agency intends to dispose of the sexual assault kit; and
 - 503 (b) by certified mail, return receipt requested, or a delivery service that provides proof of delivery.
- 505 (5) If a victim receives a notice of intent to dispose of a sexual assault kit, the victim may submit a written request, within the 180-day period described in Subsection (4)(a), that the agency retain the sexual assault kit.

HB0459 compared with HB0459S01

(6) A notice of intent to dispose of a sexual assault kit shall provide the victim with information on how to submit a written request described in Subsection (5).

510 (7) If an agency receives a written request to retain the sexual assault kit from the victim within the 180-day period described in Subsection (4)(a), the agency shall retain the sexual assault kit for the applicable time period described in Section 77-11c-201, 77-11c-301, or 77-11c-401.

518 Section 12. Section **63M-7-502** is amended to read:

519 **63M-7-502. Definitions.**

520 As used in this part:

521 (1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

522 (2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

523 (3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

524 (4) "Claimant" means any of the following claiming reparations under this part:

525 (a) a victim;

526 (b) a dependent of a deceased victim; or

527 (c) an individual or representative who files a reparations claim on behalf of a victim.

528 (5) "Child" means an unemancipated individual who is under 18 years old.

529 (6) "Collateral source" means any source of benefits or advantages for economic loss otherwise 530 reparable under this part that the claimant has received, or that is readily available to the claimant 531 from:

532 (a) the offender;

533 (b) the insurance of the offender or the victim;

534 (c) the United States government or any of its agencies, a state or any of its political subdivisions, or an 535 instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

536 (d) social security, Medicare, and Medicaid;

537 (e) state-required temporary nonoccupational income replacement insurance or disability income 538 insurance;

539 (f) workers' compensation;

540 (g) wage continuation programs of any employer;

541 (h) proceeds of a contract of insurance payable to the claimant for the loss the claimant sustained 542 because of the criminally injurious conduct;

HB0459 compared with HB0459S01

542 (i) a contract providing prepaid hospital and other health care services or benefits for disability; or
544 (j) [veteran's] {veterans'} veteran benefits, including [veteran's] {veterans'} veteran hospitalization
benefits.

545 {~~(7) "Collecting facility" means the same as that term is defined in Section 53-10-901.1.~~}

546 {[~~(7)~~{~~1~~} {~~8~~}}}

548 (a) "Confidential record" means a record in the custody of the office that relates to a claimant's
549 eligibility for a reparations award.

550 (b) "Confidential record" includes:

551 (i) a reparations claim;

552 (ii) any correspondence regarding:

553 (A) the approval or denial of a reparations claim; or

554 (B) the payment of a reparations award;

555 (iii) a document submitted to the office in support of a reparations award;

556 (iv) a medical or mental health treatment plan; and

557 (v) an investigative report provided to the office by a law enforcement agency.

558 {[~~(8)~~{~~1~~} {~~9~~}} "Criminal justice system victim advocate" means the same as that term is defined in
559 Section 77-38-403.

560 {[~~(9)~~{~~1~~} {~~10~~}}}

561 (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

562 (i) is or would be subject to prosecution in this state under Section 76-1-201;

563 (ii) occurs or is attempted;

564 (iii) causes, or poses a substantial threat of causing, bodily injury or death;

565 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct
566 possessed the capacity to commit the conduct; and

567 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water
568 craft, unless the conduct is:

569 (A) intended to cause bodily injury or death;

570 (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

571 (C) chargeable as an offense for driving under the influence of alcohol or drugs.

HB0459 compared with HB0459S01

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

573 {F(10){}} {(11){}}

(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

575 (b) "Dependent" includes a child of the victim born after the victim's death.

576 {F(11){}} {(12){}} "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

580 {F(12){}} {(13){}} "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

585 {F(13){}} {(14){}} "Director" means the director of the office.

586 {F(14){}} {(15){}} "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

588 (a) convicted of a crime;

589 (b) found delinquent; or

590 (c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

592 {F(15){}} {(16){}}

(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

595 (b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

597 (c) "Economic loss" does not include noneconomic detriment.

598 {F(16){}} {(17){}} "Elderly victim" means an individual who is 60 years old or older and who is a victim.

HB0459 compared with HB0459S01

600 {F(17){}} {(18)} "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

603 {F(18){}} {(19)} "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

604 {F(20)} "Health care provider" means the same as that term is defined in Section 26B-8-232.

605 {F(19){}} {(21)}

608 (a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

610 (b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection {F(19)(a){}} {(21)(a)}.

611 {F(20){}}

614 {F(21){}} {(23)} "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision of this state.

616 {F(22){}} {(24)}

617 (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

618 (b) "Medical examination" includes medical treatment, testing, and medications provided to a victim by a health care provider as part of a medical examination.

620 [b] (c) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

623 {F(23){}} {(25)} "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

626 {F(24){}} {(26)} "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

HB0459 compared with HB0459S01

{(25){}} {(27){}} "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

628 {(26){}} {(28){}} "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

630 {(27){}} {(29){}} "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information.

632 {(28){}} {(30){}} "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

634 {(29){}} {(31){}} "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

637 {(30){}} {(32){}} "Offense" means a violation of Title 76, Utah Criminal Code.

638 {(31){}} {(33){}} "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

640 {(32){}} {(34){}} "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

642 {(33){}} {(35){}} "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.

644 {(34){}} {(36){}}

(a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

647 (b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section 53H-14-401.

649 {(35){}} {(37){}} "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

652 {(36){}} {(38){}} "Reparations claim" means a claimant's request or application made to the office for a reparations award.

654 {(37){}} {(39){}}

(a) "Reparations officer" means an individual employed by the office to investigate a claimant's request for reparations and award reparations under this part.

HB0459 compared with HB0459S01

656 (b) "Reparations officer" includes the director when the director is acting as a reparations officer.

658 {F(38){}} {(40)} "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

662 {F(39){}} {(41)}
(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

664 (b) "Representative" does not include a service provider or collateral source.

665 {F(40){}} {(42)} "Restitution" means the same as that term is defined in Section 77-38b-102.

666 {F(41){}} {(43)}
(a) "Restitution record" means a record documenting payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

669 (b) "Restitution record" includes:
(i) a notice of restitution;
(ii) an itemized list of payments;
(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and
(iv) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

675 {F(42){}} {(44)} "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

678 {F(43){}} {(45)} "Service provider" means an individual or agency who provides a service to a claimant for a monetary fee, except attorneys as provided in Section 63M-7-524.

680 {F(44){}} {(46)} "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

682 {F(45){}} {(47)}
(a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.
(b) "Sexual assault" does not include criminal conduct described in:

HB0459 compared with HB0459S01

685 (i) Section 76-5-417, enticing a minor;
686 (ii) Section 76-5-418, sexual battery;
687 (iii) Section 76-5-419, lewdness; or
688 (iv) Section 76-5-420, lewdness involving a child.

689 {~~(46)~~{1} {~~(48)~~1} "Sexual assault counselor" means an individual who:
690 (a) is employed by or volunteers at a rape crisis and services center;
691 (b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and
693 (c) is under the supervision of the director of a rape crisis and services center or the director's designee.

695 {~~(47)~~{1} {~~(49)~~1} "Strangulation" means any act involving the use of unlawful force or violence that:
697 (a) impedes breathing or the circulation of blood; and
698 (b) is likely to produce a loss of consciousness by:
699 (i) applying pressure to the neck or throat of an individual; or
700 (ii) obstructing the nose, mouth, or airway of an individual.

701 {~~(48)~~{1} {~~(50)~~1} "Substantial bodily injury" means the same as that term is defined in Section
76-1-101.5.

703 {~~(49)~~{1} {~~(51)~~1}
(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result
of:
705 (i) criminally injurious conduct; or
706 (ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the
individual is a minor.

708 (b) "Victim" does not include an individual who participated in or observed the judicial proceedings
against an offender unless otherwise provided by statute or rule made in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act.

711 {~~(50)~~{1} {~~(52)~~1} "Work loss" means loss of income from work the injured victim would have
performed if the injured victim had not been injured and expenses reasonably incurred by the
injured victim in obtaining services in lieu of those the injured victim would have performed for
income, reduced by any income from substitute work the injured victim was capable of performing
but unreasonably failed to undertake.

716 ~~Section 13. Section 63M-7-509 is amended to read: }~~

717 **63M-7-509. Grounds for eligibility.**

HB0459 compared with HB0459S01

718 (1) [A] Subject to Subsection (4), a victim is eligible for a reparations award under this part if:

720 (a) the claimant is:

721 (i) a victim of criminally injurious conduct;

722 (ii) a dependent of a deceased victim of criminally injurious conduct; or

723 (iii) a representative acting on behalf of one of the above;

724 (b)

725 (i) the criminally injurious conduct occurred in Utah; or

728 (ii) the victim is a Utah resident who suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a crime victims' compensation program;

730 (c) the application is made in writing in a form that conforms substantially to that prescribed by the office;

733 (d) the criminally injurious conduct is reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or another federal or state investigative agency;

736 (e) the claimant or victim cooperates with the appropriate law enforcement agencies and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged offense; and

737 (f) the criminally injurious conduct occurred after December 31, 1986.

737 (2) A reparations award may be made to a victim regardless of whether any individual is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a reparations claim.

740 (3)

745 (a) Notwithstanding the requirements of Subsections (1)(d) and (e), and subject to Subsection (4), a victim of sexual assault is not required to report the sexual assault to a law enforcement officer or another federal or state investigative agency or cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if:

748 (i) the victim seeks assistance from an advocacy services provider, a criminal justice [-]system victim advocate, a health care provider, a collecting facility, or a nongovernment organization victim advocate; and

752 (ii) the advocacy services provider, the criminal justice system victim advocate, the health care provider, the collecting facility, or the nongovernment organization victim advocate completes a questionnaire, provided by the office, regarding the sexual assault.

HB0459 compared with HB0459S01

(b) Notwithstanding the requirement of Subsection (1)(e), a victim who has suffered strangulation in the course of interpersonal violence is not required to cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if the victim:

756 (i) reports the strangulation to a law enforcement officer or another federal or state investigative agency after the strangulation occurs; or

758 (ii) seeks medical care for the strangulation immediately after the strangulation occurs.

760 (4)

762 (a) A victim of a sexual assault is eligible only for the reparations described in Subsection (4)(b) if:

763 (i) the victim is otherwise eligible for a reparations award under this part;

764 (ii) the victim seeks assistance under Subsection (3)(a); and

766 (iii) the victim's questionnaire described in Subsection (3)(a)(ii) is completed by a health care

767 provider or a collecting facility.

768 (b) A victim described in Subsection (4)(a) is eligible for reparations only for:

769 (i) medical treatment for the sexual assault; and

770 (ii) a sexual assault examination.

715 Section 13. Section **77-11c-101** is amended to read:

716 **77-11c-101. Definitions.**

717 As used in this chapter:

718 (1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

719 (2) "Adjudicated" means that:

720 (a)

721 (i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

722 (ii) a sentence has been imposed by the court; or

723 (b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section

724 80-6-701.

725 (3) "Adjudication" means:

726 (a) a judgment of conviction by plea or verdict of an offense; or

727 (b) an adjudication for an offense by a juvenile court under Section 80-6-701.

728 (4) "Agency" means the same as that term is defined in Section 77-11a-101.

HB0459 compared with HB0459S01

(5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.

785 (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:

788 (i) is collected as part of an investigation or prosecution of a violent felony offense; and

790 (ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

792 (b) "Biological evidence" includes:

793 (i) material that is catalogued separately, including:

794 (A) on a slide or swab; or

795 (B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

797 (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;

800 (iii) the contents of a sexual assault kit; and

801 (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.

803 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.

804 (8) "Computer" means the same as that term is defined in Section 77-11a-101.

805 (9) "Continuous chain of custody" means:

806 (a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and

808 (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.

810 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.

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

812 (12) "Court" means a municipal, county, or state court.

813 (13) "DNA" means deoxyribonucleic acid.

814 (14) "DNA profile" means a unique identifier of an individual derived from DNA.

815 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

HB0459 compared with HB0459S01

816 (16) "Evidence" means property, contraband, or an item or substance that:

817 (a) is seized or collected as part of an investigation or prosecution of an offense; and

818 (b) may reasonably be used to incriminate or exculpate an individual for an offense.

819 (17)

820 (a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.

821 (b) "Evidence collecting or retaining entity" includes:

822 (i) a medical or forensic entity;

823 (ii) a law enforcement agency;

824 (iii) a court; and

825 (iv) an official, employee, or agent of an entity or agency described in this Subsection (17).

826 [({v})] (c) "Evidence collecting or retaining entity" does not include a collecting facility defined in

827 Section [53-10-902] 53-10-901.1.

828 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.

829 (19) "In custody" means an individual who:

830 (a) is incarcerated, civilly committed, on parole, or on probation; or

831 (b) is required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

832 (20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.

833 (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.

834 (22) "Physical evidence" includes evidence that:

835 (a) is related to:

836 (i) an investigation;

837 (ii) an arrest; or

838 (iii) a prosecution that resulted in a judgment of conviction; and

839 (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.

840 (23) "Property" means the same as that term is defined in Section 77-11a-101.

841 (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

842 (25) "Sexual assault kit" means the same as that term is defined in Section [53-10-902] 53-10-901.1.

HB0459 compared with HB0459S01

851 (26) "Victim" means the same as that term is defined in Section [53-10-902] 53-10-901.1.
852 (27) "Violent felony offense" means the same as the term "violent felony" is defined in Section
76-3-203.5.

854 (28) "Wildlife" means the same as that term is defined in Section 23A-1-101.

801 Section 77-11c-202 is amended to read:

77-11c-202. Requirements for not retaining evidence of a misdemeanor offense --

Preservation of sufficient evidence.

858 (1) An agency is not required to retain evidence of a misdemeanor offense under Section 77-11c-201 if:

860 (a)

(i) the agency determines that:

861 (A) the size, bulk, or physical character of the evidence renders retention impracticable; or

863 (B) the evidence poses a security or safety problem for the agency;

864 (ii) the agency preserves sufficient evidence of the property, contraband, item, or substance for use as
evidence in a prosecution of the offense;

866 (iii) the agency sends a written request under Subsection 77-11c-203(1) to the prosecuting attorney for
permission to return or dispose of the evidence; and

868 (iv) the prosecuting attorney grants the agency's written request in accordance with Section 77-11c-203;

870 (b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305;
or

872 (c) the evidence is wildlife or parts of wildlife.

873 (2) Notwithstanding Subsection (1), the agency may not dispose of evidence of a misdemeanor offense
that is a sexual assault kit before the day on which the time period described in Section 77-11c-201
expires if:

876 (a) the agency sends a notice to the victim as described in Section [53-10-905] 53-10-911; and

878 (b) the victim submits a written request for retention of the evidence within the 180-day period
described in Section [53-10-905] 53-10-911.

880 (3)

(a) Subsection (1) does not require an agency to return or dispose of evidence of a misdemeanor
offense.

HB0459 compared with HB0459S01

(b) Subsection (1)(a) does not apply when the return or disposal of evidence of a misdemeanor offense is in compliance with a memorandum of understanding between the agency and the prosecuting attorney.

885 (4) If the evidence described in Subsection (1) is a controlled substance, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

887 (a) collecting and preserving a sample of the controlled substance for independent testing and use as evidence;

889 (b) taking a photographic or video record of the controlled substance with identifying case numbers;

891 (c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis was performed by the agency; and

893 (d) if the controlled substance exceeds 10 pounds, retain at least one pound of the controlled substance that is randomly selected from the controlled substance.

895 (5) If the evidence described in Subsection (1) is drug paraphernalia, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

897 (a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for independent testing and use as evidence;

899 (b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis was performed by the agency; and

901 (c) taking a photographic or video record of the drug paraphernalia with identifying case numbers.

903 (6) If the evidence described in Subsection (1) is a computer, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:

905 (a) extracting all data from the computer that would be evidence in a prosecution of an individual for the offense; and

907 (b) taking a photographic or video record of the computer with identifying case numbers.

908 (7) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the property, contraband, item, or substance by taking a photographic or video record of the property, contraband, item, or substance with identifying case numbers.

858 Section 15. Section **77-11c-302** is amended to read:

859 **77-11c-302. Requirements for not retaining evidence of felony offense -- Preservation of sufficient evidence.**

915 (1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if:

HB0459 compared with HB0459S01

917 (a)

918 (i) the agency determines that:

918 (A) the size, bulk, or physical character of the evidence renders retention impracticable or the
evidence poses a security or safety problem for the agency; and

921 (B) the evidence no longer has any significant evidentiary value;

922 (ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as
evidence in a prosecution of the offense; and

924 (iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as
described in [Subsection] Section 77-11c-303;

926 (b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305;
or

928 (c) the evidence is wildlife or parts of wildlife.

929 (2) Notwithstanding Subsection (1), the agency may not dispose of evidence of a felony offense that is
a sexual assault kit before the day on which the time period described in Section 77-11c-301 expires
if:

932 (a) the agency sends a notice to the victim in accordance with Section [53-10-905] 53-10-911; and

934 (b) the victim submits a written request for retention of the evidence within the 180-day period
described in Section [53-10-905] 53-10-911.

936 (3) Subsection (1) does not require an agency to return or dispose of evidence of a felony offense.

938 (4) Subsection (1) does not apply to biological evidence of a violent felony offense because an
agency is required to retain biological evidence of a violent felony offense as described in Part 4,
Preservation of Biological Evidence for Violent Felony Offenses.

941 (5) If the evidence described in Subsection (1) is a controlled substance, an agency shall preserve
sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

943 (a) collecting and preserving a sample of the controlled substance for independent testing and use as
evidence;

945 (b) taking a photographic or video record of the controlled substance with identifying case numbers;

947 (c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis
was performed by the agency;

949 (d) if the controlled substance exceeds 10 pounds, retaining at least one pound of the controlled
substance that is randomly selected from the controlled substance; and

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951 (e) for a violent felony offense, collecting and preserving biological evidence from the controlled
952 substance as described in Section 77-11c-401.

953 (6) If the evidence described in Subsection (1) is drug paraphernalia, an agency shall preserve sufficient
954 evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

955 (a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for
956 independent testing and use as evidence;

957 (b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis
958 was performed by the agency;

959 (c) taking a photographic or video record of the drug paraphernalia with identifying case numbers; and

960 (d) for a violent felony offense, collecting and preserving biological evidence from the drug
961 paraphernalia as described in Section 77-11c-401.

962 (7) If the evidence described in Subsection (1) is a computer, the agency shall preserve sufficient
963 evidence under Subsection (1)(a)(ii) of the computer by:

964 (a) extracting all data from the computer that would be evidence in a prosecution of an individual for
965 the offense;

966 (b) taking a photographic or video record of the computer with identifying case numbers; and

967 (c) for a violent felony offense, collecting and preserving biological evidence from the computer as
968 described in Section 77-11c-401.

969 (8) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)
970 (a)(ii) of the property, contraband, item, or substance by:

971 (a) taking a photographic or video record of the property, contraband, item, or substance with
972 identifying case numbers; and

973 (b) for a violent felony offense, collecting and preserving biological evidence as described in Section
974 77-11c-401.

975 Section 16. Section **77-11c-401** is amended to read:

976 **77-11c-401. Preservation of biological evidence -- Procedures -- Inventory request.**

977 (1) Except as provided in Section 77-11c-402, an evidence collecting or retaining entity shall preserve
978 biological evidence of a violent felony offense in accordance with this part.

979 (2) An evidence collecting or retaining entity shall preserve biological evidence of a violent felony
980 offense:

981 (a) for the longer of:

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986 (i) the length of the statute of limitations for the violent felony offense if:

987 (A) no charges are filed for the violent felony offense; or

988 (B) the violent felony offense remains unsolved;

989 (ii) the length of time that any individual convicted of the violent felony offense, or a lesser included offense, remains in custody;

991 (iii) one year after the day on which all direct appeals of the judgment for any individual convicted of the violent felony offense, or a lesser included offense, are exhausted;

994 (iv) the length of time that a petition for postconviction relief, and any appeal of the petition, is pending if an individual convicted of the violent felony offense files the petition within the one-year time period described in Subsection (2)(a)(iii); or

997 (v) 20 years from the day on which the biological evidence is collected if the biological evidence is the contents of a sexual assault kit; or

999 (b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution of the violent felony offense resulted in an acquittal or dismissal.

1001 (3) An evidence collecting or retaining entity shall ensure that biological evidence under Subsection (2) is:

1003 (a) preserved in an amount and manner sufficient to:

1004 (i) develop a DNA profile; and

1005 (ii) if practicable, allow for independent testing of the biological evidence by a defendant; and

1007 (b) subject to a continuous chain of custody.

1008 (4)

1009 (a) Upon request by a defendant under Title 63G, Chapter 2, Government Records Access and Management Act, the evidence collecting or retaining entity shall prepare an inventory of the biological evidence preserved in connection with the defendant's criminal case.

1012 (b) If the evidence collecting or retaining entity cannot locate biological evidence requested under Subsection (4)(a), the custodian for the entity shall provide a sworn affidavit to the defendant that:

1015 (i) describes the efforts taken to locate the biological evidence; and

1016 (ii) affirms that the biological evidence could not be located.

1017 (5)

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(a) If the evidence collecting or retaining entity intends to dispose of biological evidence of a violent felony offense before the day on which the period described in Subsection (2) expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the biological evidence that:

1021 (i) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

1023 (A) an individual who remains in custody based on a criminal conviction related to the biological evidence;

1025 (B) the private attorney or public defender of record for each individual described in Subsection (5)(a)(i)(A);

1027 (C) the entity that employed the private attorney or public defender at the time of the criminal conviction;

1029 (D) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection (5)(a)(i)(A); and

1031 (E) the Utah attorney general; and

1032 (ii) explains that the party receiving the notice may:

1033 (A) file a motion for testing of biological evidence under Section 78B-9-301 if the party is the individual convicted of the violent felony offense; or

1035 (B) submit a written request that the evidence collecting or retaining entity retain the biological evidence.

1037 (b) An individual must file a motion, or submit a written request, described in Subsection (5)(a)(ii) within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection (5)(a).

1040 (c) An evidence collecting or retaining entity shall send a notice of intent to dispose of biological evidence that is the contents of a sexual assault kit to a victim in accordance with Section 53-10-905 53-10-911.

1043 (6) The evidence collecting or retaining entity may not dispose of biological evidence of a violent felony offense before the day on which the time period described in Subsection (2) expires if:

1046 (a) the evidence collecting or retaining entity is required by federal or state law to preserve the biological evidence; or

1048 (b)

(i) the evidence collecting or retaining entity sends notice in accordance with:

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1049 (A) Subsection (5); and

1050 (B) Section [53-10-905] 53-10-911 if the biological evidence is the contents of a sexual assault kit;
and

1052 (ii) an individual notified under Subsection (5)(a) or Section [53-10-905] 53-10-911:

1053 (A) files a motion for testing of the biological evidence under Section 78B-9-301 within the 180-day period described in Subsection (5)(b); or

1055 (B) submits a written request for retention of the biological evidence within the 180-day period described in Subsection (5)(b) or Section [53-10-905] 53-10-911.

1057 (7)

1061 (a) Subject to Subsections (7)(b) and (c), if the evidence collecting or retaining entity receives a written request to retain the biological evidence, the evidence collecting or retaining entity shall retain the biological evidence for the time period described in Subsection (2).

1064 (b) Subject to Subsection (7)(c), the evidence collecting or retaining entity may only return or dispose of physical evidence as described in Part 3, Retention of Evidence for Felony Offenses.

1068 (c) If the evidence collecting or retaining entity is not required to retain physical evidence of the violent felony offense under Part 3, Retention of Evidence for Felony Offenses, before returning or disposing of the physical evidence, the evidence collecting or retaining entity shall:

1070 (i) remove the portions of the physical evidence likely to contain biological evidence related to the violent felony offense; and

1072 (ii) preserve the removed biological evidence in a quantity sufficient to permit future DNA testing.

1074 (8) To comply with the preservation requirements described in this section, a law enforcement agency or a court may:

1075 (a) retain the biological evidence; or

1075 (b) if a continuous chain of custody can be maintained, return the biological evidence to the custody of the other law enforcement agency that originally provided the biological evidence to the law enforcement agency.

1024 Section 17. Section **77-37-2** is amended to read:

1025 **77-37-2. Definitions.**

1081 As used in this chapter:

1082 (1) "Alleged sexual offender" means the same as that term is defined in Section 53-10-801.

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(2) "Child" means a person who is younger than 18 years old, unless otherwise specified in statute.

The rights to information as extended in this chapter also apply to the parents, custodian, or legal guardians of children.

1085 (3) "Family member" means spouse, child, sibling, parent, grandparent, or legal guardian.

1086 (4) "HIV infection" means the same as that term is defined in Section 53-10-801.

1087 (5) "Sexual assault kit" means the same as that term is defined in Section [53-10-902] 53-10-901.1.

1089 (6)

1090 (a) "Sexual offense" means any conduct described in:

1091 (i) Title 76, Chapter 5, Part 4, Sexual Offenses;

1093 (ii) [Title 76, Chapter 5b, Sexual Exploitation Act; or] Section 76-5b-201, sexual exploitation of a minor;

1094 (iii) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

1095 (iv) Section 76-5b-202, sexual exploitation of a vulnerable adult;

1096 (v) Section 76-5b-204, sexual extortion; or

1097 [(vi) Section 76-7-102, incest.

1098 (b) "Sexual offense" does not include conduct described in:

1099 [(i) Section 76-5-417, enticing a minor;]

1100 [(ii) Section 76-5-420, lewdness involving a child; or]

1101 (i) Section 76-5-421, indecent exposure of another individual;

1102 (ii) Section 76-5-423, unlawful sexual activity with a child using virtual reality; or

1103 (iii) Section 76-5-424, unlawful sexual activity with a minor using virtual reality.

1105 [(iv) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.]

1107 (7) "Victim" means an individual, including a minor, against whom an offense has been allegedly committed.

1107 (8) "Witness" means any person who has been subpoenaed or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether any action or proceeding has commenced.

1057 Section 18. Section **77-37-3** is amended to read:

77-37-3. Bill of rights.

1113 (1) The bill of rights for victims and witnesses is:

1114 (a)

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- (i) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding tampering with a witness, and Section 76-8-509, regarding extortion or bribery to dismiss a criminal proceeding.
- 1119 (ii) Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.
- 1121 (b)
 - (i) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process.
- 1123 (ii) All criminal justice agencies have the duty to provide this information and assistance.
- 1125 (c)
 - (i) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
- 1128 (ii) All criminal justice agencies have the duty to provide these explanations.
- 1129 (d)
 - (i) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants.
- 1132 (ii) Agencies controlling facilities shall, whenever possible, provide this area.
- 1133 (e)
 - (i) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, [Title 77, Chapter 38b] Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710.
- 1137 (ii) State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Utah Office for Victims of Crime and to inform victims of these procedures.
- 1140 (f)
 - (i) Victims and witnesses have a right to have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property.
- 1143 (ii) Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.
- 1145 (g)

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- (i) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process.
- 1149 (ii) Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided.
- 1151 (iii) Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.
- 1153 (h)
 - (i) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process.
 - 1155 (ii) All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.
- 1157 (i)
 - (i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings.
 - 1159 (ii) Criminal justice agencies have the duty to provide these notifications.
 - 1160 (iii) Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.
- 1162 (2) In addition to the rights of a victim described in Subsection (1), a victim of a sexual offense has the right to:
 - 1164 (a) request voluntary testing for themselves for HIV infection as described in Section 53-10-803;
 - 1166 (b) request mandatory testing of the alleged sexual offender for HIV infection as described in Section 53-10-802;
 - 1168 (c) not to be prevented from, or charged for, a medical forensic examination, including when collected evidence is designated by the victim as a restricted kit;
 - 1170 (d) have the evidence from a sexual assault kit, or the contents of the sexual assault kit, preserved for the time periods described in Chapter 11c, Retention of Evidence, without any charge to the victim;
 - 1173 (e) be informed whether a DNA profile was obtained from the testing of the evidence in a sexual assault kit or from other crime scene evidence;
 - 1175 (f) be informed whether a DNA profile developed from the evidence in a sexual assault kit, or from other crime scene evidence, has been entered into the Utah Combined DNA Index System;

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1178 (g) be informed of any result from a sexual assault kit or from other crime scene evidence if that
disclosure would not impede or compromise an ongoing investigation, including:

1181 (i) whether there is a match between a DNA profile developed from the evidence in a sexual assault kit,
or from other crime scene evidence, and a DNA profile contained in the Utah Combined DNA Index
System; and

1184 (ii) a toxicology result or other information that is collected from a sexual assault kit as part of a
medical forensic examination of the victim;

1186 (h) be informed in writing of policies governing the collection and preservation of a sexual assault kit;

1188 (i) be informed of the status and location of a sexual assault kit;

1189 (j) upon written request by the victim, receive a notice of intent from an agency, as defined in Section
[53-10-905] 53-10-911, if the agency intends to destroy or dispose of evidence from a sexual assault
kit;

1192 (k) be granted further preservation of the sexual assault kit if the agency, as defined in Section
[53-10-905] 53-10-911, intends to destroy or dispose of evidence from a sexual assault kit and the
victim submits a written request as described in Section [53-10-905] 53-10-911;

1196 (l) designate a person of the victim's choosing to act as a recipient of the information provided under
this Subsection (2) or Subsections (3) and (4); and

1198 (m) be informed of all the enumerated rights in this Subsection (2).

1199 (3) Subsections (2)(e) through (g) do not require that the law enforcement agency communicate with
the victim or the victim's designee regarding the status of DNA testing, absent a specific request
received from the victim or the victim's designee.

1202 (4) A law enforcement agency investigating a sexual offense may:

1203 (a) release the information indicated in Subsections (2)(e) through (g) upon the request of the victim of
the sexual offense, or the victim's designee and is the designated agency to provide that information
to the victim or the victim's designee;

1206 (b) require that the victim's request be in writing; and

1207 (c) respond to the victim's request with verbal communication, written communication, or by email if an
email address is available.

1209 (5) A law enforcement agency investigating a sexual offense shall:

1210

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- (a) notify the victim of the sexual offense, or the victim's designee, if the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not be confirmed;
- (b) provide the information described in this section in a timely manner; and
- (c) upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

1213 (6) The law enforcement agency investigating the sexual offense is responsible for informing the victim of the sexual offense, or the victim's designee, of the rights established under this section.

1214 (7) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

1217

1170 Section 19. Section **78A-6-104** is amended to read:

78A-6-104. Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

1220 (1)

- (a) The juvenile court has jurisdiction, concurrent with the district court:
 - (i) to establish parentage, or to order testing for purposes of establishing parentage, for a child in accordance with Title 81, Chapter 5, Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights, that involves the child;
 - (ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and
 - (iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.
- (b) If the juvenile court obtains jurisdiction over a parentage action under Subsection (1)(a)(i), the juvenile court may:
 - (i) retain jurisdiction over the parentage action until parentage of the child is adjudicated; or
 - (ii) transfer jurisdiction over the parentage action to the district court.

1227 (2)

- (a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

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1245 (i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

1247 (ii) an offense under Section 53G-6-202, failure to comply with compulsory education
requirements;

1249 (iii) an offense under Section 80-2-609, failure to report;

1250 (iv) a misdemeanor offense under Section 76-5-303, custodial interference;

1251 (v) an offense under Section 76-4-206, contributing to the delinquency of a minor; or

1252 (vi) an offense under Section 80-5-601, harboring a runaway.

1253 (b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).

1256 (3)
(a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.

1261 (b)
(i) The juvenile court may, by order, change the custody subject to Subsection [81-9-204(4)] 81-9-204(5), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.

1265 (ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.

1267 (c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

1270 (4) This section does not deprive the district court of jurisdiction to:
(a) appoint a guardian for a child;

1272 (b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or

1274 (c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.

1276 (5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:

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1278 (a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child
1279 who is the object of the petition;

1280 (b) the district court has a petition pending or an order related to custody or parent-time entered under
1281 Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, Title 81, Chapter 4, Part 4,
1282 Divorce, or Title 81, Chapter 5, Uniform Parentage Act, in which the petitioner and the respondent
1283 are parties; and

1284 (c) the best interests of the child will be better served in the district court.

1285 Section 20. Section **80-4-301** is amended to read:

**80-4-301. Grounds for termination of parental rights -- Findings regarding reasonable
efforts by division.**

1286 (1) As used in this section:

1287 (a) "Sexual offense" means any conduct described in:

1288 (i) Title 76, Chapter 5, Part 4, Sexual Offenses;

1289 (ii) Title 76, Chapter 5b, Sexual Exploitation Act; or

1290 (iii) Section 76-7-102, incest.

1291 (b) "Sexual offense" does not include conduct described in:

1292 (i) Section 76-5-417, enticing a minor;

1293 (ii) Section 76-5-420, lewdness involving a child; or

1294 (iii) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

1295 (2) Subject to the protections and requirements of Section 80-4-104, and if, based on the totality of the
1296 circumstances, the juvenile court finds termination of parental rights, from the child's point of view,
1297 is strictly necessary to promote the child's best interest, the juvenile court may terminate all parental
1298 rights with respect to the parent if the juvenile court finds:

1299 (a) the parent has abandoned the child;

1300 (b) the parent has neglected or abused the child;

1301 (c) the parent is unfit or incompetent;

1302 (d)

1303 (i) the parent was convicted of a sexual offense[~~, as defined in Section 77-37-2,~~] or a comparable
1304 offense under the laws of the state where the offense occurred, against the other parent of the child;

1305 (ii) the offense resulted in the conception of the child; and

1306 (iii) termination is in the best interest of the child;

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1311 (e)

- (i) the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;
- 1313 (ii) the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and
- 1316 (iii) there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;

1318 (f) failure of parental adjustment, as defined in this chapter;

1319 (g) only token efforts have been made by the parent:

- (i) to support or communicate with the child;
- 1321 (ii) to prevent neglect of the child;
- 1322 (iii) to eliminate the risk of serious harm to the child; or
- 1323 (iv) to avoid being an unfit parent;

1324 (h)

- (i) the parent has voluntarily relinquished the parent's parental rights to the child; and
- 1326 (ii) termination is in the child's best interest;

1327 (i) after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or

1330 (j) the terms and conditions of safe relinquishment of a newborn child have been complied with as described in Part 5, Safe Relinquishment of a Newborn Child.

1332 [({2})] (3) When determining whether termination of parental rights is strictly necessary to promote the child's best interest, the court shall:

- 1334 (a) undertake the analysis from the child's point of view;
- 1335 (b) focus on finding the outcome that best secures the child's well-being;
- 1336 (c) include, as applicable, the considerations described in Sections 80-4-303 and 80-4-304; and
- 1338 (d) explore whether other feasible options exist that could address the specific problems or issues facing the family, short of imposing the ultimate remedy of terminating the parent's rights.

1341 [({3})] (4) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.

1343 [({4})] (5)

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- (a) Except as provided in Subsection [(4)(b)] (5)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection [(1)(b), (c), (e), (f), (g), or (i).] (2)(b), (c), (e), (f), (g), or (i).
- 1348 (b) Notwithstanding Subsection [(4)(a)] (5)(a), the juvenile court is not required to make the finding under Subsection [(4)(a)] (5)(a) before terminating a parent's rights:
- 1350 (i) under Subsection [(1)(b)] (2)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or
- 1352 (ii) if reasonable efforts to provide the services described in Subsection [(4)(a)] (5)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

1301 Section 21. Section **81-9-204** is amended to read:

81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.

- 1358 (1) As used in this section:

- 1359 (a) "Sexual offense" means any conduct described in:

- 1360 (i) Title 76, Chapter 5, Part 4, Sexual Offenses;

- 1361 (ii) Title 76, Chapter 5b, Sexual Exploitation Act; or

- 1362 (iii) Section 76-7-102, incest.

- 1363 (b) "Sexual offense" does not include conduct described in:

- 1364 (i) Section 76-5-417, enticing a minor;

- 1365 (ii) Section 76-5-420, lewdness involving a child; or

- 1366 (iii) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

- 1368 (2) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

- 1371 [(2)] (3) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

- 1373 [(3)] (4) In determining any form of custody and parent-time under Subsection [(1)] (2), the court shall consider:

- 1375 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

- 1378 (b) whether the parent has intentionally exposed the minor child to:

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1379 (i) pornography; or

1380 (ii) material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-5c-101; and

1382 (c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

1384 [~~(4)~~] (5) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

1387 (a) evidence of psychological maltreatment;

1388 (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:

1390 (i) physical needs;

1391 (ii) emotional needs;

1392 (iii) educational needs;

1393 (iv) medical needs; and

1394 (v) any special needs;

1395 (c) the parent's capacity and willingness to function as a parent, including:

1396 (i) parenting skills;

1397 (ii) co-parenting skills, including:

1398 (A) ability to appropriately communicate with the other parent;

1399 (B) ability to encourage the sharing of love and affection; and

1400 (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

1404 (iii) ability to provide personal care rather than surrogate care;

1405 (d) the past conduct and demonstrated moral character of the parent as described in Subsection [~~(9)~~] (10);

1407 (e) the emotional stability of the parent;

1408 (f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

1410 (g) the parent's reason for having relinquished custody or parent-time in the past;

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- 1411 (h) duration and depth of desire for custody or parent-time;
- 1412 (i) the parent's religious compatibility with the minor child;
- 1413 (j) the parent's financial responsibility;
- 1414 (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;
- 1416 (l) who has been the primary caretaker of the minor child;
- 1417 (m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the
home, school, and community;
- 1419 (n) the relative benefit of keeping siblings together;
- 1420 (o) the stated wishes and concerns of the minor child, taking into consideration the minor child's
cognitive ability and emotional maturity;
- 1422 (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
- 1424 (q) any other factor the court finds relevant.
- 1425 [~~5~~] 6
 - (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.
 - 1429 (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.
 - 1433 (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.
 - 1435 (c)
 - (i) If an interview with a minor child is conducted by the court in accordance with Subsection [~~5~~
~~b~~] 6(b), the interview shall be conducted by the court in camera.
 - 1437 (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.
 - 1440 [~~6~~] 7

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- (a) Except as provided in Subsection [(6)(b)] (7)(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.
- 1444 (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:
 - 1447 (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
 - 1449 (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.
- 1452 (c) Nothing in this section may be construed to apply to adoption proceedings under Chapter 13, Adoption.
- 1454 [¶7] (8) This section does not establish:
 - 1455 (a) a preference for either parent solely because of the gender of the parent; or
 - 1456 (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.
- 1459 [¶8] (9) 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.
- 1463 [¶9] (10) In considering the past conduct and demonstrated moral standards of each party under Subsection [(4)(d)] (5)(d) or any other factor a court finds relevant, the court may not:
 - 1466 (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) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

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1473 (ii) discriminate against a parent because of the parent's status as a:
1474 (A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;
1476 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
1477 (C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or
1479 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research
and Medical Cannabis; or
1481 (b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child
of the couple's:
1483 (i) assertion that the minor child's gender identity is different from the minor child's biological sex;
1485 (ii) practice of having or expressing a different gender identity than the minor child's biological sex; or
1487 (iii) sexual orientation.
1488 [(10)] (11)
1490 (a) The court shall consider evidence of domestic violence if evidence of domestic violence is
presented.
1492 (b) The court shall consider as primary, the safety and well-being of the minor child and the parent who
experiences domestic violence.
1495 (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.
1498 (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.
1500 [(11)] (12) Absent a showing by a preponderance of evidence of real harm or substantiated potential
harm to the minor child:
1502 (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;
1505 (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
1507 (c) it is in the best interest of the minor child to have both parents actively involved in parenting the
minor child.

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[{(12)}] (13) 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:

1510 (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

1513 (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.

1515 [{(13)}] (14) A denial of custody or parent-time under Subsection [(12)] (13) does not:

1516 (a) terminate the parental rights of the parent denied parent-time or custody; or

1517 (b) affect the obligation of the convicted parent to financially support the minor child.

1464 Section 22. Section **81-9-305** is amended to read:

81-9-305. Equal parent-time schedule.

1520 (1) (a) A court may order the equal parent-time schedule described in this section if the court determines that:

1522 (i) the equal parent-time schedule is in the minor child's best interest;

1523 (ii) each parent has been actively involved in the minor child's life; and

1524 (iii) each parent can effectively facilitate the equal parent-time schedule.

1525 (b) To determine whether each parent has been actively involved in the minor child's life, the court shall consider:

1527 (i) each parent's demonstrated responsibility in caring for the minor child;

1528 (ii) each parent's involvement in child care;

1529 (iii) each parent's presence or volunteer efforts in the minor child's school and at extracurricular activities;

1531 (iv) each parent's assistance with the minor child's homework;

1532 (v) each parent's involvement in preparation of meals, bath time, and bedtime for the minor child;

1534 (vi) each parent's bond with the minor child; and

1535 (vii) any other factor the court considers relevant.

1536 (c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:

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1538 (i) the geographic distance between the residence of each parent and the distance between each
residence and the minor child's school;

1540 (ii) each parent's ability to assist with the minor child's after school care;

1541 (iii) the health of the minor child and each parent, consistent with Subsection
[81-9-204(4)] 81-9-204(5);

1543 (iv) the flexibility of each parent's employment or other schedule;

1544 (v) each parent's ability to provide appropriate playtime with the minor child;

1545 (vi) each parent's history and ability to implement a flexible schedule for the minor child;

1547 (vii) physical facilities of each parent's residence; and

1548 (viii) any other factor the court considers relevant.

1549 (2)

1552 (a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a
parenting plan in accordance with Section 81-9-203 shall be filed with an order incorporating the
equal parent-time schedule.

1554 (b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights
per year for the other parent.

1557 (c) Under the equal parent-time schedule, a parent is not considered to have the minor child the majority
of the time for the purposes of Subsection 81-9-203(11)(e)(ii) or 81-9-205(10).

1559 (d) Child support for the equal parent-time schedule shall be consistent with Section 81-6-206.

1561 (e) A court shall determine which parent receives 182 overnights and which parent receives 183
overnights for parent-time.

1563 (3)

1565 (a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as
follows:

1567 (i) one parent shall exercise parent-time starting Monday morning and ending Wednesday
morning;

1569 (ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday
morning; and

(iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending
Monday morning.

(b) The child exchange shall take place:

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1570 (i) at the time the minor child's school begins; or
1571 (ii) if school is not in session, at 9 a.m.
1572 (4)
1573 (a) The parents may create a holiday schedule.
1574 (b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:
1575 (i) order the holiday schedule described in Section 81-9-302 or 81-9-304; and
1576 (ii) designate which parent shall exercise parent-time for each holiday described in Section 81-9-302 or
1577 81-9-304.
1578 (5)
1579 (a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time
1580 during the summer when school is not in session.
1581 (b)
1582 (i) One parent may make a designation at any time and the other parent may make a designation after
1583 May 1.
1584 (ii) A parent shall make a designation at least 30 days before the day on which the designated two-week
1585 period begins.
1586 (c) The court shall designate which parent may make the earlier designation described in Subsection (5)
1587 (b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an
1588 odd numbered year.
1589 (d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except
1590 for Mother's Day and Father's Day.

1591 Section 23. **Repealer.**

1592 This Bill Repeals:

1593 This bill repeals:

1594 Section **53-10-901, Title.**

1595 Section 24. **Effective date.**

1596 Effective Date.

1597 This bill takes effect on May 6, 2026.

1598 2-11-26 9:09 AM