

Michael K. McKell proposes the following substitute bill:

Offender Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses provisions related to offenders.

Highlighted Provisions:

This bill:

▸ allows a court to order the Division of Adult Probation and Parole to supervise an individual convicted of class B misdemeanors under certain circumstances;

▸ requires the Board of Pardons and Parole (board), if considering whether to parole an offender who has previously been paroled and had the offender's parole revoked due to a new criminal offense, to consider the facts and circumstances of the new criminal offense in determining whether the offender should be paroled again;

▸ allows the board, with certain exceptions, to only consider a pardon for an offender who has committed an offense that requires the offender to register on the Sex, Kidnap, and Child Abuse Offender Registry (the registry) if:

• for a sex offender required to register on the registry for 10 years, 10 years have passed from when the sex offender entered the community after the sex offender's conviction; or

• for a sex offender required to register on the registry for the sex offender's lifetime, 20 years have passed from when the sex offender entered the community after the sex offender's conviction;

▸ does not allow an offender who has committed an offense that requires the offender to register on the registry at the time the offender is sentenced to receive a certificate of eligibility of expungement from the Bureau of Criminal Identification; and

▸ adds to the requirements for the board to meet before the board may parole an offender before the offender's minimum term of imprisonment has been met.

Money Appropriated in this Bill:

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **64-14-204**, as renumbered and amended by Laws of Utah 2025, Chapter 214

35 **77-18-105**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

36 **77-27-5**, as last amended by Laws of Utah 2025, Chapters 476, 526

37 **77-27-9**, as last amended by Laws of Utah 2022, Chapter 430

38 **77-40a-303**, as last amended by Laws of Utah 2025, Chapters 239, 277 and 291

39 ENACTS:

40 **77-27-5.6**, Utah Code Annotated 1953

41 REPEALS:

42 **77-27-31**, as enacted by Laws of Utah 1980, Chapter 15

43

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

45 Section 1. Section **64-14-204** is amended to read:

46 **64-14-204 . Supervision of sentenced offenders placed in community --**

47 **Rulemaking -- POST certified parole or probation officers and peace officers -- Duties --**

48 **Supervision fee -- Coordination with local mental health authority.**

49 (1)(a) The division, except as otherwise provided by law, shall supervise a sentenced
50 offender placed in the community if the offender:

51 (i)(A) is placed on probation by a court;

52 (B) is released on parole by the Board of Pardons and Parole; or

53 (C) is accepted for supervision under the terms of the Interstate Compact for the
54 Supervision of Parolees and Probationers; and

55 (ii) has been convicted of:

56 (A) a felony;

57 (B) a class A misdemeanor when an element of the offense is the use or attempted
58 use of physical force against an individual or property;[~~or~~]

59 (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the
60 division is ordered by a court to supervise the offender under Section 77-18-105[~~]~~ ;

61 or

62 (D) a class B misdemeanor if the division is ordered by a court to supervise the

- 63 offender under Subsection 77-18-105(5)(b)(iii).
- 64 (b) If a sentenced offender participates in substance use treatment or a residential
65 vocational or life skills program, as defined in Section 13-53-102, while under
66 supervision on probation or parole, the division shall monitor the offender's
67 compliance with and completion of the treatment or program.
- 68 (c) The department shall establish standards for:
- 69 (i) the supervision of offenders in accordance with the adult sentencing and
70 supervision length guidelines, as defined in Section 63M-7-401.1, giving priority,
71 based on available resources, to felony offenders and offenders sentenced under
72 Subsection 58-37-8 (2)(b)(ii); and
- 73 (ii) the monitoring described in Subsection (1)(b).
- 74 (2) The division shall apply the graduated and evidence-based responses established in the
75 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1,
76 to facilitate a prompt and appropriate response to an individual's violation of the terms of
77 probation or parole, including:
- 78 (a) sanctions to be used in response to a violation of the terms of probation or parole; and
79 (b) requesting approval from the court or Board of Pardons and Parole to impose a
80 sanction for an individual's violation of the terms of probation or parole, for a period
81 of incarceration of not more than three consecutive days and not more than a total of
82 six days within a period of 30 days.
- 83 (3) The division shall implement a program of graduated incentives as established in the
84 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1
85 to facilitate the department's prompt and appropriate response to an offender's:
- 86 (a) compliance with the terms of probation or parole; or
87 (b) positive conduct that exceeds those terms.
- 88 (4)(a) The department shall, in collaboration with the State Commission on Criminal and
89 Juvenile Justice and the Division of Substance Use and Mental Health, create
90 standards and procedures for the collection of information, including cost savings
91 related to recidivism reduction and the reduction in the number of inmates, related to
92 the use of the graduated and evidence-based responses and graduated incentives, and
93 offenders' outcomes.
- 94 (b) The collected information shall be provided to the State Commission on Criminal
95 and Juvenile Justice not less frequently than annually on or before August 31.
- 96 (5) Employees of the division who are POST certified as law enforcement officers or

- 97 correctional officers and who are designated as parole and probation officers by the
98 executive director have the following duties:
- 99 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
100 with the conditions of the parole or probation agreement;
 - 101 (b) investigating or apprehending any offender who has escaped from the custody of the
102 department or absconded from supervision by the division;
 - 103 (c) supervising any offender during transportation; or
 - 104 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 105 (6)(a)(i) A monthly supervision fee of \$30 shall be collected from each offender on
106 probation or parole.
- 107 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
108 division upon a showing by the offender that imposition would create a substantial
109 hardship or if the offender owes restitution to a victim.
- 110 (b)(i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
111 Administrative Rulemaking Act, specifying the criteria for suspension or waiver
112 of the supervision fee and the circumstances under which an offender may request
113 a hearing.
- 114 (ii) In determining whether the imposition of the supervision fee would constitute a
115 substantial hardship, the division shall consider the financial resources of the
116 offender and the burden that the fee would impose, with regard to the offender's
117 other obligations.
- 118 (c) The division shall deposit money received from the monthly supervision fee
119 established in this Subsection (6) into the General Fund as a parole and probation
120 dedicated credit to be used to cover costs incurred in the collection of the fee and in
121 the development of offender supervision programs.
- 122 (7)(a) For offenders placed on probation under Section 77-18-105 or parole under
123 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019,
124 the division shall establish a program allowing an offender to earn a reduction credit
125 of 30 days from the offender's period of probation or parole for each month the
126 offender complies with the terms of the offender's probation or parole agreement,
127 including the case action plan.
- 128 (b)(i) For offenders placed on probation under Section 77-18-105 or parole under
129 Section 76-3-202 on or after July 1, 2026, the division shall establish a program,
130 consistent with the adult sentencing and supervision length guidelines, as defined

- 131 in Section 63M-7-401.1, to provide incentives for an offender that maintains
132 eligible employment, as defined in Section 64-13g-101.
- 133 (ii) The program under Subsection (7)(b)(i) may include a credit towards the
134 reduction of the length of supervision for an offender at a rate of up to 30 days for
135 each month that the offender maintains eligible employment, as defined in Section
136 64-13g-101.
- 137 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for
138 termination of supervision under the program described in this Subsection (7)(b) if
139 the court, or the Board of Pardons and Parole, finds that:
- 140 (A) the offender presents a substantial risk to public safety;
141 (B) termination would prevent the offender from completing risk reduction
142 programming or treatment; or
143 (C) the eligibility criteria for termination of supervision, as established in the adult
144 sentencing and supervision length guidelines, as defined in Section
145 63M-7-401.1, have not been met.
- 146 (iv) This Subsection (7)(b) does not prohibit the division, or another supervision
147 services provider, from requesting termination of supervision based on the
148 eligibility criteria in the adult sentencing and supervision length guidelines, as
149 defined in Section 63M-7-401.1.
- 150 (c) The division shall:
- 151 (i) maintain a record of credits earned by an offender under this Subsection (7); and
152 (ii) request from the court or the Board of Pardons and Parole the termination of
153 probation or parole not fewer than 30 days prior to the termination date that
154 reflects the credits earned under this Subsection (7).
- 155 (d) This Subsection (7) does not prohibit the division from requesting a termination date
156 earlier than the termination date established by earned credits under Subsection (7)(c).
- 157 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation
158 or parole upon completion of the period of probation or parole accrued by time
159 served and credits earned under this Subsection (7) unless the court or the Board of
160 Pardons and Parole finds that termination would interrupt the completion of a
161 necessary treatment program, in which case the termination of probation or parole
162 shall occur when the treatment program is completed.
- 163 (f) The department shall report annually to the State Commission on Criminal and
164 Juvenile Justice on or before August 31:

- 165 (i) the number of offenders who have earned probation or parole credits under this
166 Subsection (7) in one or more months of the preceding fiscal year and the
167 percentage of the offenders on probation or parole during that time that this
168 number represents;
- 169 (ii) the average number of credits earned by those offenders who earned credits;
- 170 (iii) the number of offenders who earned credits by county of residence while on
171 probation or parole;
- 172 (iv) the cost savings associated with sentencing reform programs and practices; and
- 173 (v) a description of how the savings will be invested in treatment and
174 early-intervention programs and practices at the county and state levels.
- 175 (8)(a) The department shall coordinate with a local mental health authority to complete
176 the requirements of this Subsection (8) for an offender who:
- 177 (i) is a habitual offender as that term is defined in Section 77-18-102;
- 178 (ii) has a mental illness as that term is defined in Section 26B-5-301; and
- 179 (iii) based on a risk and needs assessment:
- 180 (A) is at a high risk of reoffending; and
- 181 (B) has risk factors that may be addressed by available community-based services.
- 182 (b) For an offender described in Subsection (8)(a), at any time clinically appropriate or
183 at least three months before termination of an offender's parole or expiration of an
184 offender's sentence, the department shall coordinate with the Department of Health
185 and Human Services and the relevant local mental health authority to provide
186 applicable clinical assessments and transitional treatment planning and services for
187 the offender so that the offender may receive appropriate treatment and support
188 services after the termination of parole or expiration of sentence.
- 189 (c) The local mental health authority may determine whether the offender:
- 190 (i) meets the criteria for civil commitment;
- 191 (ii) meets the criteria for assisted outpatient treatment; or
- 192 (iii) would benefit from assignment to an assertive community treatment team or
193 available community-based services.
- 194 (d) Based on the local mental health authority's determination under Subsection (8)(c),
195 the local mental health authority shall, as appropriate:
- 196 (i) initiate an involuntary commitment court proceeding;
- 197 (ii) file a written application for assisted outpatient treatment; or
- 198 (iii) seek to have the offender assigned to an assertive community treatment team or

199 available community-based services.

200 (e) On or before November 1, 2025, the department shall provide a report to the Law
201 Enforcement and Criminal Justice Interim Committee regarding any proposed
202 changes to the requirements in this Subsection (8), including whether the
203 requirements of this Subsection (8) should also apply to any other category of
204 offenders.

205 Section 2. Section **77-18-105** is amended to read:

206 **77-18-105 . Pleas held in abeyance -- Suspension of a sentence -- Probation --**
207 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
208 **supervision for payments on criminal accounts receivable.**

209 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
210 abeyance agreement, the court may hold the plea in abeyance:

- 211 (a) in accordance with Chapter 2a, Pleas in Abeyance; and
212 (b) under the terms of the plea in abeyance agreement.

213 (2) If a defendant is convicted, the court:

- 214 (a) shall impose a sentence in accordance with Section 76-3-201; and
215 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
216 defendant:
217 (i) on probation under the supervision of the division;
218 (ii) on probation under the supervision of an agency of a local government or a
219 private organization; or
220 (iii) on court probation under the jurisdiction of the sentencing court.

221 (3)(a) The legal custody of all probationers under the supervision of the division is with
222 the department.

223 (b) The legal custody of all probationers under the jurisdiction of the sentencing court is
224 vested as ordered by the court.

225 (c) The court has continuing jurisdiction over all probationers.

226 (4)(a) Court probation may include an administrative level of services, including
227 notification to the sentencing court of scheduled periodic reviews of the probationer's
228 compliance with conditions.

229 (b) Supervised probation services provided by the division, an agency of a local
230 government, or a private organization shall specifically address the defendant's risk
231 of reoffending as identified by a screening or an assessment.

232 (c) If a court orders supervised probation and determines that a public probation

- 233 provider is unavailable or inappropriate to supervise the defendant, the court shall
234 make available to the defendant the list of private probation providers prepared by a
235 criminal justice coordinating council under Section 17E-2-201.
- 236 (5)(a) Before ordering supervised probation, the court shall consider the supervision
237 costs to the defendant for each entity that can supervise the defendant.
- 238 (b)(i) A court may order an agency of a local government to supervise the probation
239 for an individual convicted of any crime if:
- 240 (A) the agency has the capacity to supervise the individual; and
241 (B) the individual's supervision needs will be met by the agency.
- 242 (ii) A court may only order:
- 243 (A) except as provided in Subsection (5)(b)(iii), the division to supervise the
244 probation for an individual convicted of a class A misdemeanor or any felony;
245 or
246 (B) a private organization to supervise the probation for an individual convicted of
247 a class A, B, or C misdemeanor or an infraction.
- 248 (iii) A court may order the division to supervise the probation for an individual
249 convicted of a class B misdemeanor if:
- 250 (A) the individual has previously been convicted of 5 or more class B
251 misdemeanors;
252 (B) the court determines the individual is currently homeless; and
253 (C) the division consents to supervise the individual.
- 254 (c) A court may not order a specific private organization to supervise an individual
255 unless there is only one private organization that can provide the specific supervision
256 services required to meet the individual's supervision needs.
- 257 (6)(a) If a defendant is placed on probation, the court may order the defendant as a
258 condition of the defendant's probation:
- 259 (i) to provide for the support of persons for whose support the defendant is legally
260 liable;
- 261 (ii) to participate in available treatment programs, including any treatment program in
262 which the defendant is currently participating if the program is acceptable to the
263 court;
- 264 (iii) be voluntarily admitted to the custody of the Division of Substance Use and
265 Mental Health for treatment at the Utah State Hospital in accordance with Section
266 77-18-106;

- 267 (iv) if the defendant is on probation for a felony offense, to serve a period of time as
268 an initial condition of probation that does not exceed one year in a county jail
269 designated by the department, after considering any recommendation by the court
270 as to which jail the court finds most appropriate;
- 271 (v) to serve a term of home confinement in accordance with Section 77-18-107;
- 272 (vi) to participate in compensatory service programs, including the compensatory
273 service program described in Section 76-3-410;
- 274 (vii) to pay for the costs of investigation, probation, or treatment services;
- 275 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b,
276 Crime Victims Restitution Act; or
- 277 (ix) to comply with other terms and conditions the court considers appropriate to
278 ensure public safety or increase a defendant's likelihood of success on probation.
- 279 (b) If a defendant is placed on probation and a condition of the defendant's probation is
280 routine or random drug testing, the defendant shall sign a waiver consistent with the
281 Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq.,
282 allowing the treatment provider conducting the drug testing to notify the defendant's
283 supervising probation officer regarding the results of the defendant's drug testing.
- 284 (c)(i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
285 defendant to include a period of time that is served in a county jail immediately
286 before the termination of probation as long as that period of time does not exceed
287 one year.
- 288 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a
289 probation violation, the one-year limitation described in Subsection (6)(a)(iv) or
290 (6)(c)(i) does not apply to the period of time that the court orders the defendant to
291 serve in a county jail under this Subsection (6)(c)(ii).
- 292 (7)(a) Except as provided in Subsection (7)(b), probation of an individual placed on
293 probation after December 31, 2018:
- 294 (i) may not exceed the individual's maximum sentence;
- 295 (ii) shall be for a period of time that is in accordance with the adult sentencing and
296 supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the
297 guidelines are consistent with the requirements of the law; and
- 298 (iii) shall be terminated in accordance with the adult sentencing and supervision
299 length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines
300 are consistent with the requirements of the law.

- 301 (b) Probation of an individual placed on probation after December 31, 2018, whose
302 maximum sentence is one year or less, may not exceed 36 months.
- 303 (c) Probation of an individual placed on probation on or after October 1, 2015, but
304 before January 1, 2019, may be terminated at any time at the discretion of the court
305 or upon completion without violation of 36 months probation in felony or class A
306 misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions,
307 or as allowed in accordance with Section 64-13-21 regarding earned credits.
- 308 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
309 offense for criminal nonsupport under Section 76-7-201.
- 310 (8)(a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
311 accounts receivable for the defendant upon termination of the probation period for
312 the defendant under Subsection (7), the court may require the defendant to continue
313 to make payments towards the criminal accounts receivable in accordance with the
314 payment schedule established by the court under Section 77-32b-103.
- 315 (b) A court may not require the defendant to make payments as described in Subsection
316 (8)(a) beyond the expiration of the defendant's sentence.
- 317 (c) If the court requires a defendant to continue to pay in accordance with the payment
318 schedule for the criminal accounts receivable under this Subsection (8) and the
319 defendant defaults on the criminal accounts receivable, the court shall proceed with
320 an order for a civil judgment of restitution and a civil accounts receivable for the
321 defendant as described in Section 77-18-114.
- 322 (d)(i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
323 own motion, the court may require a defendant to show cause as to why the
324 defendant's failure to pay in accordance with the payment schedule should not be
325 treated as contempt of court.
- 326 (ii) A court may hold a defendant in contempt for failure to make payments for a
327 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3,
328 Contempt.
- 329 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
330 offense for criminal nonsupport under Section 76-7-201.
- 331 (9) When making any decision regarding probation:
- 332 (a) the court shall consider information provided by the Department of Corrections
333 regarding a defendant's individual case action plan, including any progress the
334 defendant has made in satisfying the case action plan's completion requirements; and

- 335 (b) the court may not rely solely on an algorithm or a risk assessment tool score.
- 336 Section 3. Section **77-27-5** is amended to read:
- 337 **77-27-5 . Board of Pardons and Parole authority.**
- 338 (1)(a) Subject to this chapter and other laws of the state, and except for a conviction for
- 339 treason or impeachment, the board shall determine by majority decision when and
- 340 under what conditions an offender's conviction may be pardoned or commuted.
- 341 (b) The board shall determine by majority decision when and under what conditions an
- 342 offender committed to serve a sentence at a penal or correctional facility, which is
- 343 under the jurisdiction of the department, may:
- 344 (i) be released upon parole;
- 345 (ii) have a fine or forfeiture remitted;
- 346 (iii) have the offender's criminal accounts receivable remitted in accordance with
- 347 Section 77-32b-105 or 77-32b-106;
- 348 (iv) have the offender's payment schedule modified in accordance with Section
- 349 77-32b-103; or
- 350 (v) have the offender's sentence terminated.
- 351 (c) The board shall prioritize public safety when making a determination under
- 352 Subsection (1)(a) or (1)(b).
- 353 (d)(i) The board may sit together or in panels to conduct hearings.
- 354 (ii) The chair shall appoint members to the panels in any combination and in
- 355 accordance with rules made by the board in accordance with Title 63G, Chapter 3,
- 356 Utah Administrative Rulemaking Act.
- 357 (iii) The chair may participate on any panel and when doing so is chair of the panel.
- 358 (iv) The chair of the board may designate the chair for any other panel.
- 359 (e)(i) Except after a hearing before the board, or the board's appointed examiner, in
- 360 an open session, the board may not:
- 361 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts
- 362 receivable;
- 363 (B) release the offender on parole; or
- 364 (C) commute, pardon, or terminate an offender's sentence.
- 365 (ii) An action taken under this Subsection (1) other than by a majority of the board
- 366 shall be affirmed by a majority of the board.
- 367 (f) A commutation or pardon may be granted only after a full hearing before the board.
- 368 (2)(a) In the case of a hearing, timely prior notice of the time and location of the hearing

- 369 shall be given to the offender.
- 370 (b) The county or district attorney's office responsible for prosecution of the case, the
371 sentencing court, and law enforcement officials responsible for the defendant's arrest
372 and conviction shall be notified of any board hearings through the board's website.
- 373 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
374 notified of original hearings and any hearing after that if notification is requested and
375 current contact information has been provided to the board.
- 376 (d)(i) Notice to the victim or the victim's representative shall include information
377 provided in Section 77-27-9.5, and any related rules made by the board under that
378 section.
- 379 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are
380 reasonable for the lay person to understand.
- 381 (3)(a) A decision by the board is final and not subject for judicial review if the decision
382 is regarding:
- 383 (i) a pardon, parole, commutation, or termination of an offender's sentence;
384 (ii) restitution, the modification of an offender's payment schedule for restitution, or
385 an order for costs; or
386 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 387 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter
388 4, Open and Public Meetings Act, when the board is engaged in the board's
389 deliberative process.
- 390 (c) [~~Pursuant to~~] In accordance with Subsection 63G-2-103(25)(b)(xii), records of the
391 deliberative process are exempt from Title 63G, Chapter 2, Government Records
392 Access and Management Act.
- 393 (d) Unless it will interfere with a constitutional right, deliberative processes are not
394 subject to disclosure, including discovery.
- 395 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.
- 396 (4)(a) This chapter [~~may not be construed as a denial of or limitation of~~] does not deny or
397 limit the governor's power to grant respite or reprieves in all cases of convictions for
398 offenses against the state, except treason or conviction on impeachment.
- 399 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the
400 next session of the board.
- 401 (c) At the next session of the board, the board:
- 402 (i) shall continue or terminate the respite or reprieve; or

- 403 (ii) may commute the punishment or pardon the offense as provided.
- 404 (d) In the case of conviction for treason, the governor may suspend execution of the
405 sentence until the case is reported to the Legislature at the Legislature's next session.
- 406 (e) The Legislature shall pardon or commute the sentence or direct the sentence's
407 execution.
- 408 (5)(a) In determining when, where, and under what conditions an offender serving a
409 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the
410 offender's criminal accounts receivable remitted, or have the offender's sentence
411 commuted or terminated, the board shall:
- 412 (i) consider whether the offender has made restitution ordered by the court under
413 Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,
414 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a
415 commutation or termination of the offender's sentence;
- 416 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for
417 making determinations under this Subsection (5);
- 418 (iii) consider information provided by the department regarding an offender's
419 individual case action plan;[-and]
- 420 (iv) review an offender's status within 60 days after the day on which the board
421 receives notice from the department that the offender has completed all of the
422 offender's case action plan components that relate to activities that can be
423 accomplished while the offender is imprisoned[-] ; and
- 424 (v) if considering whether to parole an offender who has previously been paroled and
425 had the parole revoked due to the commission of a new criminal offense by the
426 offender, consider the facts and circumstances of the new criminal offense when
427 determining whether the offender should be paroled again.
- 428 (b) The board shall determine whether to remit an offender's criminal accounts
429 receivable under this Subsection (5) in accordance with Section 77-32b-105 or
430 77-32b-106.
- 431 (6) In determining whether parole may be terminated, the board shall consider:
- 432 (a) the offense committed by the parolee; and
- 433 (b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.
- 434 (7) For an offender placed on parole after December 31, 2018, the board shall terminate
435 parole in accordance with the adult sentencing and supervision length guidelines, as
436 defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the

437 requirements of the law.

438 (8) The board may not rely solely on an algorithm or a risk assessment tool score in
439 determining whether parole should be granted or terminated for an offender.

440 (9) The board may intervene as a limited-purpose party in a judicial or administrative
441 proceeding, including a criminal action, to seek:

442 (a) correction of an order that has or will impact the board's jurisdiction; or

443 (b) clarification regarding an order that may impact the board's jurisdiction.

444 (10) A motion to intervene brought under Subsection (9)(a) shall be raised within 60 days
445 after the day on which a court enters the order that impacts the board's jurisdiction.

446 Section 4. Section **77-27-5.6** is enacted to read:

447 **77-27-5.6 . Pardon timelines for an offender on the Sex, Kidnap, and Child**
448 **Abuse Offender Registry.**

449 (1) As used in this section:

450 (a) "Division" means the Division of Juvenile Justice and Youth Services.

451 (b) "Minor" means the same as that term is defined in Section 80-1-102.

452 (c) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry created in
453 Section 53-29-102.

454 (d) "Sex offender" means the same as that term is defined in Section 53-29-101.

455 (2) The board may only consider issuing a pardon to an offender for an offense that requires
456 the offender to register as a sex offender on the registry if:

457 (a) for an offender who is required to register for 10 years under Subsection
458 53-29-203(1)(a), 10 years have passed after the later of:

459 (i) the day on which the offender was placed on probation;

460 (ii) the day on which the offender was released from incarceration to parole;

461 (iii) the day on which the offender's sentence was terminated without parole;

462 (iv) the day on which the offender entered a community-based residential program; or

463 (v) for a minor, the day on which the division's custody of the offender was
464 terminated; or

465 (b) for an offender who is required to register for the offender's lifetime under
466 Subsection 53-29-203(1)(b), 20 years have passed after the later of:

467 (i) the day on which the offender was placed on probation;

468 (ii) the day on which the offender was released from incarceration to parole;

469 (iii) the day on which the offender's sentence was terminated without parole;

470 (iv) the day on which the offender entered a community-based residential program; or

- 471 (v) for a minor, the day on which the division's custody of the offender was
 472 terminated.
- 473 (3) The timelines described in Subsection (2) do not apply to:
- 474 (a) an individual whose conviction was vacated, reversed, or otherwise set aside; or
 475 (b) an individual who was found to be factually innocent by a court after filing a petition
 476 for:
- 477 (i) postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act; or
 478 (ii) a writ of habeas corpus under 28 U.S.C. Sec. 2254.

479 Section 5. Section **77-27-9** is amended to read:

480 **77-27-9 . Parole proceedings.**

- 481 (1)(a) The Board of Pardons and Parole may parole any offender or terminate the
 482 sentence of any offender committed to a penal or correctional facility under the
 483 jurisdiction of the Department of Corrections except as provided in Subsection (2).
- 484 (b) The board may not release any offender before the minimum term has been served
 485 unless the board:
- 486 (i) finds mitigating circumstances which justify the release;
- 487 (ii) finds by clear and convincing evidence that the offender is no longer a threat to
 488 public safety; and
- 489 (iii) ~~[-unless the board has granted]~~ holds a full hearing, in open session, after
 490 previous notice of the time and location of the hearing, and recorded the
 491 proceedings and decisions of the board.
- 492 (c) The board may not parole any offender or terminate the sentence of any offender
 493 unless the board has granted a full hearing, in open session, after previous notice of
 494 the time and location of the hearing, and recorded the proceedings and decisions of
 495 the board.
- 496 (d) The release of an offender shall be at the initiative of the board, which shall consider
 497 each case as the offender becomes eligible. However, a prisoner may submit the
 498 prisoner's own application, subject to the rules of the board promulgated in
 499 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 500 (2)(a) An individual sentenced to prison ~~[prior to]~~ before April 29, 1996, for a first
 501 degree felony involving child kidnapping, a violation of Section 76-5-301.1;
 502 aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of
 503 Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy
 504 upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a

- 505 violation of Section 76-5-404.3; aggravated sexual assault, a violation of Section
506 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for
507 release on parole by the Board of Pardons and Parole until the offender has fully
508 completed serving the minimum mandatory sentence imposed by the court. [-]This
509 Subsection (2)(a) supersedes any other provision of law.
- 510 (b) The board may not parole any offender or commute or terminate the sentence of any
511 offender before the offender has served the minimum term for the offense, if the
512 offender was sentenced [~~prior to~~] before April 29, 1996, and if:
- 513 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape,
514 aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual
515 assault as defined in Title 76, Chapter 5, Offenses Against the Individual; and
516 (ii) the victim of the offense was under 18 years old at the time the offense was
517 committed.
- 518 (c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the
519 board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole
520 as provided in this section.
- 521 (d) The board may not pardon or parole any offender or commute or terminate the
522 sentence of any offender who is sentenced to life in prison without parole except as
523 provided in Subsection (7).
- 524 (e) [~~On or after April 27, 1992, the~~] The board may commute a sentence of death only to
525 a sentence of life in prison without parole.
- 526 (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come
527 before the Board of Pardons and Parole on or after April 27, 1992.
- 528 (g) The board may not parole any offender convicted of a homicide unless:
- 529 (i) the remains of the victim have been recovered; or
530 (ii) the offender can demonstrate by a preponderance of the evidence that the
531 offender has cooperated in good faith in efforts to locate the remains.
- 532 (h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25,
533 2021, or any offender who was incarcerated in a correctional facility on or after
534 February 25, 2021, for a homicide offense.
- 535 (3) The board may rescind:
- 536 (a) an inmate's prison release date [~~prior to~~] before the inmate being released from
537 custody; or
538 (b) an offender's termination date from parole [~~prior to~~] before the offender being

539 terminated from parole.

540 (4)(a) The board may issue subpoenas to compel the attendance of witnesses and the
541 production of evidence, to administer oaths, and to take testimony for the purpose of
542 any investigation by the board or any of the board's members or by a designated
543 hearing examiner in the performance of the board's duties.

544 (b) A person who willfully disobeys a properly served subpoena issued by the board is
545 guilty of a class B misdemeanor.

546 (5)(a) The board may adopt rules consistent with law for the board's government,
547 meetings and hearings, the conduct of proceedings before the board, the parole and
548 pardon of offenders, the commutation and termination of sentences, and the general
549 conditions under which parole may be granted and revoked.

550 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings
551 held under this chapter, as provided in Section 77-27-9.5.

552 (c) The rules may allow the board to establish reasonable and equitable time limits on
553 the presentations by all participants in hearings held under this chapter.

554 (6) The board does not provide counseling or therapy for victims as a part of their
555 participation in any hearing under this chapter.

556 (7) The board may parole a person sentenced to life in prison without parole if the board
557 finds by clear and convincing evidence that the person is permanently incapable of being
558 a threat to the safety of society.

559 Section 6. Section **77-40a-303** is amended to read:

560 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**
561 **conviction.**

562 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
563 certificate of eligibility from the bureau to expunge the records of a conviction if:

564 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
565 conviction for which expungement is sought;

566 (b) the petitioner has paid in full all restitution ordered by the court under Section
567 77-38b-205; and

568 (c) the following time periods have passed after the day on which the petitioner was
569 convicted or released from incarceration, parole, or probation, whichever occurred
570 last, for the conviction that the petitioner seeks to expunge:

571 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

572 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a

- 573 controlled substance in an individual's body and causing serious bodily injury or death, as
574 codified before May 4, 2022, Laws of Utah 2021,
575 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 576 (iii) seven years for the conviction of a felony;
 - 577 (iv) five years for the conviction of a drug possession offense that is a felony;
 - 578 (v) five years for the conviction of a class A misdemeanor;
 - 579 (vi) four years for the conviction of a class B misdemeanor; or
 - 580 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 581 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
582 expunge the records of a conviction under Subsection (1) if:
- 583 (a) except as provided in Subsection (3), the conviction for which expungement is
584 sought is:
 - 585 (i) a capital felony;
 - 586 (ii) a first degree felony;
 - 587 (iii) a felony conviction of a violent felony as defined in Subsection
588 76-3-203.5(1)(c)(i);
 - 589 (iv) a felony conviction described in Subsection 41-6a-501(2); or
 - 590 (v) an offense, or a combination of offenses, that require registration as a sex
591 offender, kidnap offender, or child abuse offender under Title 53, Chapter 29, Sex,
592 Kidnap, and Child Abuse Registry, at the time of sentencing or at the time of the
593 application for the certificate of eligibility;
 - 594 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
595 the petitioner, unless the criminal proceeding is for a traffic offense;
 - 596 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
597 petitioner, unless the plea in abeyance is for a traffic offense;
 - 598 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
599 petitioner is on probation or parole for an infraction, a traffic offense, or a minor
600 regulatory offense;
 - 601 (e) the petitioner intentionally or knowingly provides false or misleading information on
602 the application for a certificate of eligibility;
 - 603 (f) there is a civil protective order, a criminal protective order, or a criminal stalking
604 injunction against the petitioner that is in effect; or
 - 605 (g) the bureau determines that the petitioner's criminal history makes the petitioner
606 ineligible for a certificate of eligibility under Subsection (4) or (5).

- 607 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
608 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed
609 the offense was at least 14 years old but under 18 years old, unless the petitioner was
610 convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5,
611 Minor Tried as an Adult.
- 612 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate
613 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
614 determines that the petitioner's criminal history, including previously expunged
615 convictions, contains any of the following:
- 616 (a) two or more felony convictions other than for drug possession offenses, each of
617 which is contained in a separate criminal episode;
 - 618 (b) any combination of three or more convictions other than for drug possession offenses
619 that include two class A misdemeanor convictions, each of which is contained in a
620 separate criminal episode;
 - 621 (c) any combination of four or more convictions other than for drug possession offenses
622 that include three class B misdemeanor convictions, each of which is contained in a
623 separate criminal episode; or
 - 624 (d) five or more convictions other than for drug possession offenses of any degree
625 whether misdemeanor or felony, each of which is contained in a separate criminal
626 episode.
- 627 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
628 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
629 determines that the petitioner's criminal history, including previously expunged
630 convictions, contains any of the following:
- 631 (a) three or more felony convictions for drug possession offenses, each of which is
632 contained in a separate criminal episode; or
 - 633 (b) any combination of five or more convictions for drug possession offenses, each of
634 which is contained in a separate criminal episode.
- 635 (6) If the petitioner's criminal history contains convictions for both a drug possession
636 offense and a non-drug possession offense arising from the same criminal episode, the
637 bureau shall count that criminal episode as a conviction under Subsection (4) if any
638 non-drug possession offense in that episode:
- 639 (a) is a felony or class A misdemeanor; or
 - 640 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug

- 641 possession offense in that episode.
- 642 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on
643 which the petitioner was convicted or released from incarceration, parole, or probation,
644 whichever occurred last, for all convictions:
- 645 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
646 one; and
- 647 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
648 the highest level of convicted offense in the criminal episode is:
- 649 (i) a class B misdemeanor;
- 650 (ii) a class C misdemeanor;
- 651 (iii) a drug possession offense if none of the non-drug possession offenses in the
652 criminal episode are a felony or a class A misdemeanor; or
- 653 (iv) an infraction.
- 654 (8) When determining whether a petitioner is eligible for a certificate of eligibility under
655 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
656 prior conviction for:
- 657 (a) an infraction;
- 658 (b) a traffic offense;
- 659 (c) a minor regulatory offense; or
- 660 (d) a clean slate eligible case that was automatically expunged.
- 661 (9) If the petitioner received a pardon before May 14, 2013, from the Board of Pardons and
662 Parole, the petitioner is entitled to an expungement order for all pardoned crimes in
663 accordance with Section 77-27-5.1.

664 Section 7. **Repealer.**

665 This bill repeals:

666 Section **77-27-31, Short title.**

667 Section 8. **Effective Date.**

668 This bill takes effect on May 6, 2026.