

Ryan D. Wilcox proposes the following substitute bill:

Coercion Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses criminal offenses related to coercive conduct.

Highlighted Provisions:

This bill:

- creates the criminal offense of aiding or encouraging suicide that:

- contains current language regarding aiding suicide moved from the criminal offense of manslaughter; and

- adds new elements of encouraging suicide in certain circumstances that can be charged criminally;

- amends the surcharge amount a court is required to impose on an individual convicted of aiding or encouraging suicide, sexual extortion, or aggravated sexual extortion;

- separates the criminal offenses of sexual extortion and aggravated sexual extortion into two separate offenses;

- adds additional elements to the criminal offense of sexual extortion;

- adds the criminal offenses of sexual extortion and aggravated sexual extortion to the list of offenses that are eligible to be considered a domestic violence offense; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-120, as last amended by Laws of Utah 2025, Chapter 63

51-9-401, as last amended by Laws of Utah 2021, Chapter 262

29 **53-10-115**, as enacted by Laws of Utah 2018, Chapter 169
30 **53-29-202**, as enacted by Laws of Utah 2025, Chapter 291
31 **53-29-203**, as enacted by Laws of Utah 2025, Chapter 291
32 **53-29-205**, as enacted by Laws of Utah 2025, Chapter 291
33 **53G-9-207**, as last amended by Laws of Utah 2025, Chapter 388
34 **76-1-301**, as last amended by Laws of Utah 2025, Chapters 173, 174
35 **76-3-406.5**, as last amended by Laws of Utah 2008, Chapter 3
36 **76-5-205**, as last amended by Laws of Utah 2024, Chapter 364
37 **76-5b-204**, as last amended by Laws of Utah 2025, Chapter 178
38 **76-17-401**, as renumbered and amended by Laws of Utah 2025, Chapter 173
39 **77-22-2.5**, as last amended by Laws of Utah 2025, Chapter 173
40 **77-23a-8**, as last amended by Laws of Utah 2025, Chapters 173, 174
41 **77-36-1**, as last amended by Laws of Utah 2025, Chapters 173, 208 and 277
42 **80-6-712**, as last amended by Laws of Utah 2025, Chapters 173, 208
43 **80-6-804**, as last amended by Laws of Utah 2025, Chapters 173, 208

44 ENACTS:

45 **76-5-211**, Utah Code Annotated 1953
46 **76-5b-204.1**, Utah Code Annotated 1953

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

49 Section 1. Section **26B-2-120** is amended to read:

50 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

51 (1) As used in this section:

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

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

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

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

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

61 (E) an individual who provides certified peer support, as defined in Section
62 26B-5-610;

- 63 (F) an individual who provides peer supports, has a disability or a family member
64 with a disability, or is in recovery from a mental illness or a substance use
65 disorder;
- 66 (G) an individual who has lived experience with the services provided by the
67 department, and uses that lived experience to provide support, guidance, or
68 services to promote resiliency and recovery;
- 69 (H) an individual who is identified as a mental health professional, licensed under
70 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in
71 the practice of mental health therapy, as defined in Section 58-60-102;
- 72 (I) an individual, other than the child or vulnerable adult receiving the service,
73 who is 12 years old or older and resides in a home, that is licensed or certified
74 by the division;
- 75 (J) an individual who is 12 years old or older and is associated with a certification,
76 contract, or licensee with the department under this part and has or will likely
77 have direct access;
- 78 (K) a foster home licensee that submits an application for an annual background
79 screening as required by Subsection 26B-2-105(4)(d)(iii); or
- 80 (L) a short-term relief care provider.
- 81 (ii) "Applicant" does not include:
- 82 (A) an individual who is in the custody of the Division of Child and Family
83 Services or the Division of Juvenile Justice and Youth Services;
- 84 (B) an individual who applies for employment with, or is employed by, the
85 Department of Health and Human Services;
- 86 (C) a parent of a person receiving services from the Division of Services for
87 People with Disabilities, if the parent provides direct care to and resides with
88 the person, including if the parent provides direct care to and resides with the
89 person pursuant to a court order; or
- 90 (D) an individual or a department contractor who provides services in an adults
91 only substance use disorder program, as defined by rule adopted by the
92 Department of Health and Human Services in accordance with Title 63G,
93 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
94 director or a member, as defined by Section 26B-2-105, of the program.
- 95 (b) "Application" means a background check application to the office.
- 96 (c) "Bureau" means the Bureau of Criminal Identification within the Department of

Public Safety, created in Section 53-10-201.

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

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

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

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

(f)(i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

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

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

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

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

- (i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;
- (ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- (iv) juvenile court arrest, adjudication, and disposition records;
- (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or
- (vi) a state child abuse or neglect registry.

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

131 (k) "Personal identifying information" means:

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

133 (ii) date of birth;

134 (iii) physical address and email address;

135 (iv) telephone number;

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

137 (vi) social security number;

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

140 (viii) other information specified by the office by rule made in accordance with Title
141 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

144 (a) personal identifying information;

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

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

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

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

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

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

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

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

164 (3) The office:

- (a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:
- (i) check state and regional criminal background databases for the applicant's criminal history by:
 - (A) submitting personal identifying information to the bureau for a search; or
 - (B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;
 - (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;
 - (iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
 - (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;
 - (v) search the Division of Child and Family Services' Management Information System in Section 80-2-1001, if the applicant is:
 - (A) a prospective foster or adoptive parent;
 - (B) an employee of a congregate care program; or
 - (C) an adult who lives in a foster home.
 - (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
 - (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404 or 80-3-504; and
 - (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;
- (b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (i) for an annual renewal; or
 - (ii) when the office determines that reasonable cause exists;
- (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated

- 199 with the applicant;
- 200 (d) shall track the status of an applicant under this section to ensure that the applicant is
- 201 not required to duplicate the submission of the applicant's fingerprints if the applicant
- 202 is associated with more than one certification, contract, or licensee with the
- 203 department;
- 204 (e) shall notify the bureau when a direct access qualified individual has not been
- 205 associated with a certification, contract, or licensee with the department for a period
- 206 of 180 days;
- 207 (f) shall adopt measures to strictly limit access to personal identifying information solely
- 208 to the individuals responsible for processing and entering the applications for
- 209 background checks and to protect the security of the personal identifying information
- 210 the office reviews under this Subsection (3);
- 211 (g) as necessary to comply with the federal requirement to check a state's child abuse
- 212 and neglect registry regarding any applicant working in a congregate care program,
- 213 shall:
- 214 (i) search the Division of Child and Family Services' Licensing Information System
- 215 described in Section 80-2-1002; and
- 216 (ii) require the child abuse and neglect registry be checked in each state where an
- 217 applicant resided at any time during the five years immediately preceding the day
- 218 on which the application is submitted to the office; and
- 219 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 220 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
- 221 background checks.
- 222 (4)(a) With the personal identifying information the office submits to the bureau under
- 223 Subsection (3), the bureau shall check against state and regional criminal background
- 224 databases for the applicant's criminal history.
- 225 (b) With the personal identifying information and fingerprints the office submits to the
- 226 bureau under Subsection (3), the bureau shall check against national criminal
- 227 background databases for the applicant's criminal history.
- 228 (c) Upon direction from the office, and with the personal identifying information and
- 229 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 230 (i) maintain a separate file of the fingerprints for search by future submissions to the
- 231 local and regional criminal records databases, including latent prints; and
- 232 (ii) monitor state and regional criminal background databases and identify criminal

- 233 activity associated with the applicant.
- 234 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
235 Investigation Next Generation Identification System, to be retained in the Federal
236 Bureau of Investigation Next Generation Identification System for the purpose of:
- 237 (i) being searched by future submissions to the national criminal records databases,
238 including the Federal Bureau of Investigation Next Generation Identification
239 System and latent prints; and
- 240 (ii) monitoring national criminal background databases and identifying criminal
241 activity associated with the applicant.
- 242 (e) The bureau shall notify and release to the office all information of criminal activity
243 associated with the applicant.
- 244 (f) Upon notice that an individual who has direct access qualified status will no longer
245 be associated with a certification, contract, or licensee with the department, the
246 bureau shall:
- 247 (i) discard and destroy any retained fingerprints; and
- 248 (ii) notify the Federal Bureau of Investigation when the license has expired or an
249 individual's direct access to a child or a vulnerable adult has ceased, so that the
250 Federal Bureau of Investigation will discard and destroy the retained fingerprints
251 from the Federal Bureau of Investigation Next Generation Identification System.
- 252 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access
253 qualified status to an applicant who, within three years from the date on which the
254 office conducts the background check, was convicted of:
- 255 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 256 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
257 cruelty to animals, or bestiality;
- 258 (B) a violation of any pornography law, including sexual exploitation of a minor
259 or aggravated sexual exploitation of a minor;
- 260 (C) sexual solicitation or prostitution;
- 261 (D) a violent offense committed in the presence of a child, as described in Section
262 76-3-203.10;
- 263 (E) an offense included in Title 76, Chapter 5, Part 1, 2, 3, 4, or 7;
- 264 (F) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act, other
265 than Section 76-5b-206;
- 266 (G) an offense included in Title 76, Chapter 7, Offenses Against the Family;

- (H) an offense included in Title 76, Chapter 12, Part 3, Privacy Offenses;
- (I) an offense included in Title 76, Chapter 15, Part 3, Weapons of Mass Destruction;
- (J) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
- (K) aggravated arson, as described in Section 76-6-103;
- (L) aggravated burglary, as described in Section 76-6-203;
- (M) aggravated exploitation of prostitution, as described in Section 76-5d-208;
- (N) aggravated robbery, as described in Section 76-6-302;
- (O) endangering persons in a human services program, as described in Section 26B-2-113;
- (P) failure to report, as described in Section 80-2-609;
- (Q) identity fraud crime, as described in Section 76-6-1102;
- (R) riot, as described in Section 76-9-101; or
- (S) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-11-207; or
- (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).
- (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.
- (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).
- (c) Subject to Subsection (5)(d), the office shall deny direct access qualified status to an applicant who:
- (i) a court order prohibits from having direct access to a child or vulnerable adult; or
- (ii) is an applicant for a congregate care program and:
- (A) is subject to an open investigation for a non-criminal finding; or
- (B) has a supported non-criminal finding, excluding a supported finding for dependency, as defined in Section 80-1-102, within three years from the date on which the office conducts the background check.
- (d)(i) Subsection (5)(c) does not apply retrospectively for congregate care program

employees who have an approved background screening on or before July 1, 2025; or

(ii) notwithstanding Subsection (5)(c)(ii)(A), the division may grant temporary direct access qualified status to an applicant subject to a condition that the applicant is directly supervised at all times.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title

- 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
- (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:
- (i) under 28 years old; or
- (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);
- (k) has a pending charge for an offense described in Subsection (5)(a);
- (l) has a supported finding that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- (m) has a supported finding that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;
- (n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- (o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- (p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- (q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.
- (7)(a) The comprehensive review shall include an examination of:
- (i) the date of the offense or incident;
- (ii) the nature and seriousness of the offense or incident;

- 369 (iii) the circumstances under which the offense or incident occurred;
370 (iv) the age of the perpetrator when the offense or incident occurred;
371 (v) whether the offense or incident was an isolated or repeated incident;
372 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
373 adult, including:
374 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
375 (B) sexual abuse;
376 (C) sexual exploitation; or
377 (D) negligent treatment;
378 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
379 treatment received, or additional academic or vocational schooling completed;
380 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
381 which the applicant is applying; and
382 (ix) if the background check of an applicant is being conducted for the purpose of
383 giving direct access qualified status to an applicant seeking a position in a
384 congregate care program or to become a prospective foster or adoptive parent, any
385 listing in the Division of Child and Family Services' Management Information
386 System described in Section 80-2-1001.
- 387 (b) At the conclusion of the comprehensive review, the office shall deny direct access
388 qualified status to an applicant if the office finds the approval would likely create a
389 risk of harm to a child or vulnerable adult.
- 390 (8) The office shall grant direct access qualified status to an applicant who is not denied
391 under this section.
- 392 (9)(a) The office may conditionally grant direct access qualified status to an applicant,
393 for a maximum of 60 days after the day on which the office sends written notice,
394 without requiring that the applicant be directly supervised, if the office:
395 (i) is awaiting the results of the criminal history search of national criminal
396 background databases; and
397 (ii) would otherwise grant direct access qualified status to the applicant under this
398 section.
- 399 (b) The office may conditionally grant direct access qualified status to an applicant, for a
400 maximum of one year after the day on which the office sends written notice, without
401 requiring that the applicant be directly supervised if the office:
402 (i) is awaiting the results of an out-of-state registry for providers other than foster and

- 403 adoptive parents; and
- 404 (ii) would otherwise grant direct access qualified status to the applicant under this
- 405 section.
- 406 (c) Upon receiving the results of the criminal history search of a national criminal
- 407 background database, the office shall grant or deny direct access qualified status to
- 408 the applicant in accordance with this section.
- 409 (10)(a) Each time an applicant is associated with a licensee, the department shall review
- 410 the current status of the applicant's background check to ensure the applicant is still
- 411 eligible for direct access qualified status in accordance with this section.
- 412 (b) A licensee may not permit an individual to have direct access to a child or a
- 413 vulnerable adult without being directly supervised unless:
- 414 (i) the individual is the parent or guardian of the child, or the guardian of the
- 415 vulnerable adult;
- 416 (ii) the individual is approved by the parent or guardian of the child, or the guardian
- 417 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 418 (iii) the individual is only permitted to have direct access to a vulnerable adult who
- 419 voluntarily invites the individual to visit; or
- 420 (iv) the individual only provides incidental care for a foster child on behalf of a foster
- 421 parent who has used reasonable and prudent judgment to select the individual to
- 422 provide the incidental care for the foster child.
- 423 (c) Notwithstanding any other provision of this section, an applicant who is denied direct
- 424 access qualified status shall not have direct access to a child or vulnerable adult
- 425 unless the office grants direct access qualified status to the applicant through a
- 426 subsequent application in accordance with this section.
- 427 (11) If the office denies direct access qualified status to an applicant, the applicant may
- 428 request a hearing in the department's Office of Administrative Hearings to challenge the
- 429 office's decision.
- 430 (12)(a) This Subsection (12) applies to an applicant associated with a certification,
- 431 contract, or licensee serving adults only.
- 432 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
- 433 shall comply with this section.
- 434 (c) The office shall conduct a comprehensive review for an applicant if:
- 435 (i) the applicant is seeking a position:
- 436 (A) as a peer support provider;

- 437 (B) as a mental health professional; or
- 438 (C) in a program that serves only adults with a primary mental health diagnosis,
- 439 with or without a co-occurring substance use disorder; and
- 440 (ii) within three years from the date on which the office conducts the background
- 441 check, the applicant has a felony or misdemeanor charge or conviction or a
- 442 non-criminal finding.
- 443 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate
- 444 care program, an applicant seeking to provide a prospective foster home, an applicant
- 445 seeking to provide a prospective adoptive home, and each adult living in the home of
- 446 the prospective foster or prospective adoptive home.
- 447 (b) As federally required, the office shall:
- 448 (i) check the child abuse and neglect registry in each state where each applicant
- 449 resided in the five years immediately preceding the day on which the applicant
- 450 applied to be a foster or adoptive parent, to determine whether the prospective
- 451 foster or adoptive parent is listed in the registry as having a substantiated or
- 452 supported finding of child abuse or neglect; and
- 453 (ii) except for applicants seeking a position in a congregate care program, check the
- 454 child abuse and neglect registry in each state where each adult living in the home
- 455 of the prospective foster or adoptive home resided in the five years immediately
- 456 preceding the day on which the applicant applied to be a foster or adoptive parent,
- 457 to determine whether the adult is listed in the registry as having a substantiated or
- 458 supported finding of child abuse or neglect.
- 459 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 460 (i) federal law or rule permits otherwise; or
- 461 (ii) the requirements would prohibit the Division of Child and Family Services or a
- 462 court from placing a child with:
- 463 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 464 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
- 465 or 80-3-303, pending completion of the background check described in
- 466 Subsections (5), (6), and (7).
- 467 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 468 qualified status if the applicant has been convicted of:
- 469 (i) a felony involving conduct that constitutes any of the following:
- 470 (A) child abuse, as described in Section 76-5-109;

- (B) aggravated child abuse, as described in Section 76-5-109.2;
 (C) child abandonment, as described in Section 76-5-109.3;
 (D) child torture, as described in Section 76-5-109.4;
 (E) commission of domestic violence in the presence of a child, as described in
 Section 76-5-114;
 (F) abuse or neglect of a child with a disability, as described in Section 76-5-110;
 (G) intentional aggravated abuse of a vulnerable adult, as described in Section
 76-5-111;
 (H) endangerment of a child or vulnerable adult, as described in Section
 76-5-112.5;
 (I) aggravated murder, as described in Section 76-5-202;
 (J) murder, as described in Section 76-5-203;
 (K) manslaughter, as described in Section 76-5-205;
(L) aiding or encouraging suicide, as described in Section 76-5-211;
~~[(L)]~~ (M) child abuse homicide, as described in Section 76-5-208;
~~[(M)]~~ (N) homicide by assault, as described in Section 76-5-209;
~~[(N)]~~ (O) kidnapping, as described in Section 76-5-301;
~~[(O)]~~ (P) child kidnapping, as described in Section 76-5-301.1;
~~[(P)]~~ (Q) aggravated kidnapping, as described in Section 76-5-302;
~~[(Q)]~~ (R) human trafficking of a child, as described in Section 76-5-308.5;
~~[(R)]~~ (S) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other
 than Section 76-5-417, 76-5-418, or 76-5-419;
~~[(S)]~~ (T) sexual exploitation of a minor, as described in Title 76, Chapter 5b,
 Sexual Exploitation Act;
~~[(T)]~~ (U) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
~~[(U)]~~ (V) aggravated arson, as described in Section 76-6-103;
~~[(V)]~~ (W) aggravated burglary, as described in Section 76-6-203;
~~[(W)]~~ (X) aggravated robbery, as described in Section 76-6-302;
~~[(X)]~~ (Y) incest, as described in Section 76-7-102; or
~~[(Y)]~~ (Z) domestic violence, as described in Section 77-36-1; or
 (ii) an offense committed outside the state that, if committed in the state, would
 constitute a violation of an offense described in Subsection (13)(d)(i).
 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
 qualified status to an applicant if, within the five years from the date on which the

office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

- (i) aggravated assault, as described in Section 76-5-103;
- (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- (iii) mayhem, as described in Section 76-5-105;
- (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
- (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

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

- (i) has an offense described in Subsection (5)(a);
- (ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;
- (iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;
- (v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- (vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

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

- (a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and
- (b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying

direct access qualified status to an applicant.

Section 2. Section **51-9-401** is amended to read:

51-9-401 . Surcharge -- Application.

(1)(a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by the courts.

(b) The surcharge shall be:

(i) 95% upon conviction of:

(A) aiding or encouraging suicide, as described in Section 76-5-211;

(B) a felony violation of sexual extortion, as described in Section 76-5b-204; or

(C) aggravated sexual extortion, as described in Section 76-5b-204.1;

~~[(i)]~~ (ii) 90% upon conviction of[-a]:

(A) except as provided in Subsection (1)(b)(i), a felony;

(B) a class A misdemeanor;

(C) a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or

(D) a class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances; or

~~[(ii)]~~ (iii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 90% surcharge.

(c) The Division of Finance shall deposit into the General Fund an amount equal to the amount that the state retains under Section 80-6-304.

(2) The surcharge may not be imposed:

(a) upon nonmoving traffic violations;

(b) upon court orders when the offender is ordered to perform compensatory service work in lieu of paying a fine; and

(c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 80-6-304.

(3)(a) The surcharge and the exceptions under Subsections (1) and (2) apply to all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if committed by an adult.

(b) Notwithstanding Subsection (3)(a), the surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this part and does not affect the imposition or collection of the surcharge.

(4) The surcharge under this section shall be imposed in addition to the fine charged for a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition.

(5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be authorized and managed by this part rather than attached to particular offenses.

Section 3. Section **53-10-115** is amended to read:

53-10-115 . Cold case database.

(1) As used in this section, "cold case" means an investigation into any crime listed in Subsections 76-1-301(2)(a) through [(g)] (h), or regarding a missing person, that remains unsolved at least three years after the crime occurred or the individual went missing.

(2) The division shall develop a secure database within the Utah Criminal Justice Information System that contains information related to each cold case that is open in any jurisdiction in the state.

(3) The division shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify:

(a) the information to be collected and maintained in the database; and

(b) what information may be accessed by the public.

(4) Each law enforcement agency in the state shall provide the information required by the division for inclusion in the database for each open investigation. The law enforcement agency shall maintain the physical evidence and investigation file for each case unless otherwise agreed to by the law enforcement agency and the division.

(5) The division shall maintain the information on a cold case indefinitely.

Section 4. Section **53-29-202** is amended to read:

53-29-202 . Registrable offenses -- Status as a sex offender, kidnap offender, and child abuse offender established.

(1) An individual is an offender described in Subsection (2) and subject to the requirements, restrictions, and penalties described in this chapter if the individual:

(a) has been convicted in this state of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(ii) child torture under Section 76-5-109.4;

(iii) a felony or class A misdemeanor violation of enticing a minor under Section 76-5-417;

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

(v) human trafficking for sexual exploitation under Section 76-5-308.1;

- (vi) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);
- (vii) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- (viii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;
- (ix) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);
- (x) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense unless the individual was younger than 21 years old at the time of the offense then on the individual's second offense;
- (xi) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- (xii) rape under Section 76-5-402;
- (xiii) rape of a child under Section 76-5-402.1;
- (xiv) object rape under Section 76-5-402.2;
- (xv) object rape of a child under Section 76-5-402.3;
- (xvi) a felony violation of forcible sodomy under Section 76-5-403;
- (xvii) sodomy on a child under Section 76-5-403.1;
- (xviii) forcible sexual abuse under Section 76-5-404;
- (xix) sexual abuse of a child under Section 76-5-404.1;
- (xx) aggravated sexual abuse of a child under Section 76-5-404.3;
- (xxi) aggravated sexual assault under Section 76-5-405;
- (xxii) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;
- (xxiii) sexual exploitation of a minor under Section 76-5b-201;
- (xxiv) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- (xxv) sexual extortion [~~or aggravated sexual extortion~~] under Section 76-5b-204;
- (xxvi) aggravated sexual extortion under Section 76-5b-204.1;
- ~~[(xxvi)]~~ (xxvii) incest under Section 76-7-102;
- ~~[(xxvii)]~~ (xxviii) lewdness under Section 76-5-419, if the individual has been convicted of the offense four or more times;
- ~~[(xxviii)]~~ (xxix) sexual battery under Section 76-5-418, if the individual has been convicted of the offense four or more times;
- ~~[(xxix)]~~ (xxx) any combination of convictions of lewdness under Section 76-5-419, and of sexual battery under Section 76-5-418, that total four or more convictions;

[~~(xxx)~~] (xxxi) lewdness involving a child under Section 76-5-420;
[~~(xxxi)~~] (xxxii) a felony or class A misdemeanor violation of:
 (A) voyeurism under Section 76-12-306;
 (B) recorded or photographed voyeurism under Section 76-12-307; or
 (C) distribution of images obtained through voyeurism under Section 76-12-308;
[~~(xxxii)~~] (xxxiii) aggravated exploitation of prostitution under Section 76-5d-208;
[~~(xxxiii)~~] (xxxiv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender
 was not the natural parent of the child victim;
[~~(xxxiv)~~] (xxxv) child kidnapping under Section 76-5-301.1, if the offender was not
 the natural parent of the child victim;
[~~(xxxv)~~] (xxxvi) aggravated kidnapping under Section 76-5-302, if the offender was
 not the natural parent of the child victim;
[~~(xxxvi)~~] (xxxvii) human trafficking for labor under Section 76-5-308, if the offender
 was not the natural parent of the child victim;
[~~(xxxvii)~~] (xxxviii) human smuggling under Section 76-5-308.3, if the offender was
 not the natural parent of the child victim;
[~~(xxxviii)~~] (xxxix) human trafficking of a child for labor under Subsection
 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;
[~~(xxxix)~~] (xl) aggravated human trafficking for labor under Section 76-5-310, if the
 offender was not the natural parent of the child victim;
[~~(xl)~~] (xli) aggravated human smuggling under Section 76-5-310.1, if the offender
 was not the natural parent of the child victim;
[~~(xli)~~] (xlii) human trafficking of a vulnerable adult for labor under Section 76-5-311,
 if the offender was not the natural parent of the child victim; or
[~~(xlii)~~] (xliii) attempting, soliciting, or conspiring to commit a felony violation of an
 offense listed in Subsections (1)(a)(i) through [~~(xli)~~] (xlii);
(b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or
 conspiracy to commit a criminal offense in an external jurisdiction that is
 substantially equivalent to the offense listed in Subsection (1)(a); and
(ii)(A) is a Utah resident; or
 (B) is not a Utah resident and is in this state for a total of 10 days in a 12-month
 period, regardless of whether the individual intends to permanently reside in
 this state;
(c)(i)(A) is required to register on a registry in an external jurisdiction for

individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

(B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(d)(i)(A) is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially equivalent offense in an external jurisdiction; or

(B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) is found not guilty by reason of insanity in this state or in an external jurisdiction of an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (1)(a); and

(ii) has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) Subject to Subsection (3), an individual is:

- 709 (a) a child abuse offender if the individual:
- 710 (i) has committed, attempted, solicited, or conspired to commit an offense described
- 711 in Subsection (1)(a)(i) through (ii); or
- 712 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
- 713 described in Subsection (1)(a)(i) through (ii) or a substantially equivalent offense;
- 714 (b) a sex offender if the individual:
- 715 (i) has committed, attempted, solicited, or conspired to commit an offense described
- 716 in Subsections (1)(a)(iii) through [~~(xxxii)~~] (xxxiii); or
- 717 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
- 718 described in Subsections (1)(a)(iii) through [~~(xxxii)~~] (xxxiii) or a substantially
- 719 equivalent offense; or
- 720 (c) a kidnap offender if the individual:
- 721 (i) has committed, attempted, solicited, or conspired to commit an offense described
- 722 in Subsections [~~(1)(a)(xxxiii)~~] ((1)(a)(xxxiv)) through [~~(xli)~~] (xlii); or
- 723 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
- 724 described in Subsections [~~(1)(a)(xxxiii)~~] ((1)(a)(xxxiv)) through [~~(xli)~~] (xlii) or a
- 725 substantially equivalent offense.
- 726 (3) An individual who has committed a registrable offense described in Subsection
- 727 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense
- 728 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child
- 729 abuse registry, or an equivalent registry, in the individual's state of residence is a child
- 730 abuse offender, sex offender, or kidnap offender based on the individual's status on the
- 731 registry in the individual's state of residence.
- 732 (4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a
- 733 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a,
- 734 Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently
- 735 reduced or dismissed in accordance with the plea in abeyance agreement.
- 736 Section 5. Section **53-29-203** is amended to read:
- 737 **53-29-203 . Registration lengths -- 10 years -- Lifetime.**
- 738 (1) Except as provided in Subsection (2), (3), or (4), an individual who commits a
- 739 registrable offense is required to register on the registry for:
- 740 (a) 10 years after the day on which the offender's sentence for the offense has been
- 741 terminated if the registrable offense is for:
- 742 (i) a felony or class A misdemeanor violation of enticing a minor under Section

- 76-5-417, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(a)(ii) through (xxiv);
- (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
 - (iii) child torture under Section 76-5-109.4;
 - (iv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;
 - (v) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;
 - (vi) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;
 - (vii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;
 - (viii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;
 - (ix) aggravated human smuggling under Section 76-5-310.1;
 - (x) human trafficking of a vulnerable adult for labor under Section 76-5-311;
 - (xi) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;
 - (xii) sexual abuse of a minor under Section 76-5-401.1;
 - (xiii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
 - (xiv) forcible sexual abuse under Section 76-5-404;
 - (xv) custodial sexual relations under Section 76-5-412;
 - (xvi) sexual exploitation of a vulnerable adult under Section 76-5b-202;
 - (xvii) sexual extortion under [~~Subsection 76-5b-204(2)(a)~~] Section 76-5b-204;
 - (xviii) incest under Section 76-7-102;
 - (xix) four to seven convictions of lewdness under Section 76-5-419;
 - (xx) four to seven convictions of sexual battery under Section 76-5-418;
 - (xxi) any combination of convictions of lewdness under Section 76-5-419, and of sexual battery under Section 76-5-418, that total four to seven convictions;
 - (xxii) lewdness involving a child under Section 76-5-420;
 - (xxiii) a felony or class A misdemeanor violation of:
 - (A) voyeurism under Section 76-12-306;
 - (B) recorded or photographed voyeurism under Section 76-12-307; or
 - (C) distribution of images obtained through voyeurism under Section 76-12-308;

(xxiv) aggravated exploitation of prostitution under Section 76-5d-208, committed on or before May 9, 2011;

(xxv) attempting, soliciting, or conspiring to commit an offense listed in Subsections(1)(a)(i) through (xxiv) if the attempt, solicitation, or conspiracy is a registrable offense; or

(xxvi) attempting, soliciting, or conspiring to commit:

(A) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(B) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;

(C) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;

(D) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;

(E) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;

(F) forcible sodomy under Section 76-5-403;

(G) sexual abuse of a child under Section 76-5-404.1;

(H) sexual exploitation of a minor under Section 76-5b-201;

(I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(J) aggravated sexual extortion under [~~Subsection 76-5b-204(2)(b)] Section 76-5b-204.1; or~~

(K) aggravated exploitation of prostitution under Section 76-5d-208, on or after May 10, 2011; or

(b) the offender's lifetime if the registrable offense is:

(i) a conviction for an offense described in Subsection (1)(a), if the offender has, at the time of conviction for the offense:

(A) previously been convicted of an offense described in Subsection (1)(a), or a substantially equivalent offense in an external jurisdiction; or

(B) previously been required to register as an offender for an offense described in Subsection (1)(a) committed as a juvenile;

(ii) a following offense, including attempting, soliciting, or conspiring to commit a felony violation of:

(A) child kidnapping under Section 76-5-301.1, if the offender was not the natural

- 811 parent of the child victim;
- 812 (B) rape under Section 76-5-402;
- 813 (C) rape of a child under Section 76-5-402.1;
- 814 (D) object rape under Section 76-5-402.2;
- 815 (E) object rape of a child under Section 76-5-402.3;
- 816 (F) sodomy on a child under Section 76-5-403.1;
- 817 (G) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 818 (H) aggravated sexual assault under Section 76-5-405;
- 819 (iii) aggravated kidnapping under Section 76-5-302, if the offender was not the
- 820 natural parent of the child victim;
- 821 (iv) human trafficking for sexual exploitation under Section 76-5-308.1, if the
- 822 offender was not the natural parent of the child victim;
- 823 (v) human trafficking of a child for sexual exploitation under Subsection
- 824 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
- 825 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310, if
- 826 the offender was not the natural parent of the child victim;
- 827 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section
- 828 76-5-311, if the offender was not the natural parent of the child victim;
- 829 (viii) forcible sodomy under Section 76-5-403;
- 830 (ix) sexual abuse of a child under Section 76-5-404.1;
- 831 (x) sexual exploitation of a minor under Section 76-5b-201;
- 832 (xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 833 (xii) aggravated sexual extortion under [~~Subsection 76-5b-204(2)(b)] Section~~
- 834 76-5b-204.1;
- 835 (xiii) aggravated exploitation of prostitution under Section 76-5d-208, on or after
- 836 May 10, 2011; or
- 837 (xiv) a felony violation of enticing a minor under Section 76-5-417, if the offender
- 838 enticed the minor to engage in sexual activity that is one of the offenses described
- 839 in Subsections (1)(b)(ii) through (xiii).
- 840 (2) An individual who qualifies as an offender based on a conviction in an external
- 841 jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an
- 842 external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is
- 843 required to register on the registry for the time period required by the external
- 844 jurisdiction.

- (3)(a) If the sentencing court at any time after an offender is convicted of an offense requiring lifetime registration described in Subsection (1)(b), and after considering the factors described in Subsection (3)(b), determines that the offender was under 21 years old at the time the offense was committed and the offense did not involve force or coercion, the requirement that the offender register for the offender's lifetime does not apply and the offender shall register for 10 years after the day on which the offender's sentence for the offense has been terminated.
- (b) In determining whether an offense committed by an offender involves force or coercion under Subsection (3)(a), the sentencing court shall consider:
- (i) the age of the victim;
 - (ii) the vulnerability of the victim;
 - (iii) the physical, mental, psychological, or emotional harm the victim suffered from the offense;
 - (iv) whether the offender used fraud or deception to commit the offense;
 - (v) if any child sexual abuse material, as that term is defined in Section 76-5b-103, was:
 - (A) distributed to the victim by the offender; or
 - (B) distributed, produced, or possessed by the offender at the time of the offense, that involved force or coercion against a victim depicted in the child sexual abuse material; and
 - (vi) any other factor the sentencing court determines is relevant.
- (4) Except for an individual who is adjudicated for a registrable offense and is an offender who meets the requirements under Subsection 53-29-202(1)(f), an individual who is under 18 years old and commits a registrable offense after May 3, 2023, is not subject to registration requirements under this chapter unless the offender:
- (a) is charged by criminal information in juvenile court under Section 80-6-503;
 - (b) is bound over to district court in accordance with Section 80-6-504; and
 - (c) is convicted of a registrable offense.
- (5) An offender subject to the 10-year or lifetime registration requirements under Subsection (1) may petition the court for an order of removal from the registry in accordance with Section 53-29-204, 53-29-205, or 53-29-206.
- Section 6. Section **53-29-205** is amended to read:
- 53-29-205 . Ten-year petition for removal from registry -- Eligibility.**
- (1) An offender who is required to register on the registry for a registrable offense

described in Subsection (3) subject to a 10-year registration period as described in Section 53-29-203 is eligible to petition the court under Section 53-29-207 for an order of removal from the registry at a 10-year after entrance into the community period described in Subsection (2) if:

- (a) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (2), as evidenced by a certificate of eligibility issued by the bureau;
- (b) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and
- (c) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense.

(2) An offender who qualifies under Subsection (1) may petition the court under Section 53-29-207 for an order of removal from the registry if 10 years have passed after the later of the following events in which the offender entered into the community:

- (a) the day on which the offender was placed on probation;
- (b) the day on which the offender was released from incarceration to parole;
- (c) the day on which the offender's sentence was terminated without parole;
- (d) the day on which the offender entered a community-based residential program; or
- (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated.

(3) The offenses that qualify for a 10-year petition for an order of removal from the registry referenced in Subsection (1) are:

- (a) a felony violation of enticing a minor under Section 76-5-417, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (3)(b) through (v);
- (b) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- (c) child torture under Section 76-5-109.4;
- (d) human trafficking for labor under Section 76-5-308;
- (e) human smuggling under Section 76-5-308.3;
- (f) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
- (g) aggravated human trafficking for labor under Section 76-5-310;
- (h) aggravated human smuggling under Section 76-5-310.1;
- (i) human trafficking of a vulnerable adult for labor under Section 76-5-311;

- (j) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is more than 10 years older than the victim;
- (k) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is more than 10 years older than the victim;
- (l) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the time of the offense, the offender is more than 15 years older than the victim;
- (m) forcible sexual abuse under Section 76-5-404;
- (n) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;
- (o) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- (p) sexual extortion under ~~[Subsection 76-5b-204(2)(a)]~~ Section 76-5b-204;
- (q) incest under Section 76-7-102;
- (r) four or more convictions of lewdness under Section 76-5-419;
- (s) four or more convictions of sexual battery under Section 76-5-418;
- (t) any combination of convictions of lewdness under Section 76-5-419, and of sexual battery under Section 76-5-418, that total four or more convictions;
- (u) lewdness involving a child under Section 76-5-420;
- (v) a felony violation of:
- (i) recorded or photographed voyeurism under Section 76-12-307; or
 - (ii) distribution of images obtained through voyeurism under Section 76-12-308;
- (w) aggravated exploitation of prostitution under Section 76-5d-208, committed on or before May 9, 2011;
- (x) attempting, soliciting, or conspiring to commit an offense listed in Subsections (3)(a) through (v) if the attempt, solicitation, or conspiracy is a registrable offense;
- (y) attempting, soliciting, or conspiring to commit:
- (i) human trafficking for sexual exploitation under Section 76-5-308.1;
 - (ii) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);
 - (iii) aggravated human trafficking for sexual exploitation under Section 76-5-310;
 - (iv) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;
 - (v) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the victim;
 - (vi) forcible sodomy under Section 76-5-403;

- 947 (vii) sexual abuse of a child under Section 76-5-404.1;
- 948 (viii) sexual exploitation of a minor under Section 76-5b-201;
- 949 (ix) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 950 (x) aggravated sexual extortion under [~~Subsection 76-5b-204(2)(b)~~] Section
- 951 76-5b-204.1; or
- 952 (xi) aggravated exploitation of prostitution under Section 76-5d-208, on or after May
- 953 10, 2011; or
- 954 (z) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject
- 955 to a 20-year petition for removal as described in Section 53-29-206, if:
- 956 (i) the sentencing court determines that the offender was under 21 years old at the
- 957 time the offense was committed; and
- 958 (ii) the offense did not involve force or coercion as described in Subsection
- 959 53-29-203(3).
- 960 (4) An individual who is as an offender under Section 53-29-202 based on a conviction in
- 961 an external jurisdiction for a registrable offense, or a substantially equivalent offense,
- 962 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
- 963 offender registry, or an equivalent registry, may petition for removal from the registry in
- 964 accordance with the requirements of this section if the individual:
- 965 (a) does not have a lifetime registration requirement on the external jurisdiction's sex,
- 966 kidnap, or child abuse offender registry, or an equivalent registry;
- 967 (b) meets the requirements described in Subsections (1)(a) through (c);
- 968 (c) has resided in this state for at least 183 days in a year for two consecutive years;
- 969 (d) intends to primarily reside in this state; and
- 970 (e) has received an order from a court in the external jurisdiction where the offender was
- 971 initially required to register on a sex, kidnap, and child abuse registry, or an
- 972 equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap,
- 973 and Child Abuse Offender Registry.

974 Section 7. Section **53G-9-207** is amended to read:

975 **53G-9-207 . Child sexual abuse prevention.**

- 976 (1) As used in this section:
- 977 (a)(i) "Age-appropriate instructional material" means materials that provide
- 978 instruction on:
 - 979 (A) the responsibility of adults for the safety of children;
 - 980 (B) how to recognize uncomfortable inner feelings;

- (C) how to say no and leave an uncomfortable situation;
- (D) how to set clear boundaries;
- (E) the risks of sharing intimate images or personal information through electronic means; and
- (F) the importance of discussing uncomfortable situations with parents and other trusted adults.

(ii) "Age-appropriate instructional material" does not include materials that:

- (A) invites a student to share personal experiences about abuse during instruction;
- (B) gives instruction regarding consent as described in Section 76-5-406; or
- (C) includes sexually explicit language or depictions.

(b) "Alternative provider" means a provider other than the provider selected by the state board under Subsection (8) that provides the training and instruction described in Subsection (4) with instructional materials approved under Subsection (2).

(c) "School personnel" means the same as that term is defined in Section 53G-9-203.

(d) "Sexual extortion" means [the] a criminal offense described in Section 76-5b-204 or 76-5b-204.1.

(2) The state board shall approve, in partnership with the Department of Health and Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3)(a) An LEA shall provide, once every three years, training and instruction on child sexual abuse and human trafficking prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

- (A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;
- (B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; ~~[-and]~~
- (C) the mandatory reporting requirements described in Sections 53E-6-701 and 80-2-602; and
- (D) appropriate responses to incidents of sexual extortion, including connecting victims with support services; and

(ii) parents of elementary school students on:

- (A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation;

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child; and

(C) resources available for victims of sexual extortion.

(b) An LEA:

(i) shall use the instructional materials approved by the state board under Subsection (2) to provide the training and instruction under Subsections (3)(a) and (4); or

(ii) may use instructional materials the LEA creates to provide the instruction and training described in Subsections (3)(a) and (4), if the LEA's instructional materials are approved by the state board under Subsection (2).

(4)(a) In accordance with Subsections (4)(b) and (5), an LEA may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age-appropriate curriculum.

(b) An LEA that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.

(5)(a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) An LEA may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the state board, an LEA shall provide evidence of compliance with this section.

(8) The state board shall select a provider to provide the training and instruction described in Subsection (4), including requiring the provider selected to:

(a) engage in outreach efforts to support more schools to participate in the training and

- 1049 instruction;
- 1050 (b) provide materials for the instruction involving students in accordance with
- 1051 Subsection (4);
- 1052 (c) provide an outline of how many LEAs, schools, and students the provider could
- 1053 service; and
- 1054 (d) submit a report to the state board that includes:
- 1055 (i) information on the LEAs the provider engaged with in the outreach efforts,
- 1056 including:
- 1057 (A) how many schools within an LEA increased instructional offerings for
- 1058 training and instruction; and
- 1059 (B) the reasons why an LEA chose to participate or not in the offered training or
- 1060 instruction;
- 1061 (ii) the number of schools and students that received the training and instruction;
- 1062 (iii) budgetary information regarding how the provider utilized any funds the state
- 1063 board allocated; and
- 1064 (iv) additional information the state board requests.
- 1065 (9) Subject to legislative appropriation, there is created a grant program to support an LEA
- 1066 that chooses to use an alternative provider other than the provider selected by the state
- 1067 board under Subsection (8) to provide the training and instruction described in
- 1068 Subsection (4).
- 1069 (10) The state board shall:
- 1070 (a) establish a process to select alternative providers for an LEA to use, including:
- 1071 (i) an application process for a provider to become an alternative provider;
- 1072 (ii) required criteria for a provider to become an alternative provider; and
- 1073 (iii) relevant timelines;
- 1074 (b) create a process for an LEA to receive a grant award described in Subsection (9),
- 1075 including:
- 1076 (i) an application process;
- 1077 (ii) relevant timelines; and
- 1078 (iii) a scoring rubric and corresponding formula for determining a grant amount; and
- 1079 (c) make grant awards on a first come first served basis until the state board distributes
- 1080 all appropriated funds.
- 1081 (11) An LEA that receives a grant award described in Subsection (10)(b) shall:
- 1082 (a) use the grant award to cover the costs needed for implementation of the training or

instruction described in Subsection (4); and

- (b) upon request of the state board, provide an itemized list of the uses of the grant award.

Section 8. Section **76-1-301** is amended to read:

76-1-301 . Offenses for which prosecution may be commenced at any time.

- (1) As used in this section:

- (a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).
- (b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

- (2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

- (a) an offense classified as a capital felony under Section 76-3-103;
- (b) aggravated murder under Section 76-5-202;
- (c) murder under Section 76-5-203;
- (d) manslaughter under Section 76-5-205;
- (e) child abuse homicide under Section 76-5-208;
- (f) aiding or encouraging suicide under Section 76-5-211;
- ~~[(f)]~~ (g) aggravated kidnapping under Section 76-5-302;
- ~~[(g)]~~ (h) child kidnapping under Section 76-5-301.1;
- ~~[(h)]~~ (i) rape under Section 76-5-402;
- ~~[(i)]~~ (j) rape of a child under Section 76-5-402.1;
- ~~[(j)]~~ (k) object rape under Section 76-5-402.2;
- ~~[(k)]~~ (l) object rape of a child under Section 76-5-402.3;
- ~~[(l)]~~ (m) forcible sodomy under Section 76-5-403;
- ~~[(m)]~~ (n) sodomy on a child under Section 76-5-403.1;
- ~~[(n)]~~ (o) sexual abuse of a child under Section 76-5-404.1;
- ~~[(o)]~~ (p) aggravated sexual abuse of a child under Section 76-5-404.3;
- ~~[(p)]~~ (q) aggravated sexual assault under Section 76-5-405;
- ~~[(q)]~~ (r) any predicate offense to a murder or aggravating offense to an aggravated murder;

[~~(t)~~] (s) aggravated human trafficking under Section 76-5-310;
 [~~(s)~~] (t) aggravated human smuggling under Section 76-5-310.1;
 [~~(t)~~] (u) human trafficking of a child under Section 76-5-308.5; or
 [~~(u)~~] (v) aggravated exploitation of prostitution involving a child under Section 76-5d-208.

Section 9. Section **76-3-406.5** is amended to read:

76-3-406.5 . Aggravating factors in imprisonment for certain criminal homicide cases.

(1) As used in this section:

(a) "Cohabitant" has the same definition as in Section 78B-7-102.

(b) "Position of trust" includes the position of a spouse, parent, or cohabitant.

(2) It is an aggravating factor that the [~~person~~] actor occupied a position of trust in relation to the victim.

(3) The Board of Pardons and Parole shall consider the aggravating factor in Subsection (2) in determining the length of imprisonment for [~~a person~~] an actor convicted of:

(a) aggravated murder under Section 76-5-202;

(b) murder under Section 76-5-203; [~~or~~]

(c) manslaughter under Section 76-5-205[~~;~~] ; or

(d) aiding or encouraging suicide under Section 76-5-211.

(4) The sentencing court shall consider the aggravating factor in Subsection (2) in sentencing [~~a person~~] an actor convicted of:

(a) [~~]~~manslaughter under Section 76-5-205; or

(b) aiding or encouraging suicide under Section 76-5-211.

Section 10. Section **76-5-205** is amended to read:

76-5-205 . Manslaughter.

(1)[~~(a)~~] As used in this section:

[~~(i)(A) "Aid" means the act of providing the physical means.]~~

[~~(B) "Aid" does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under Title 75A, Chapter 3, Health Care Decisions, or any other laws of this state.]~~

[~~(ii) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.]~~

[~~(iii) "Provides" means to administer, prescribe, distribute, or dispense.]~~

[~~(b)~~] Terms defined in Section 76-1-101.5 apply to this section.

- (2) ~~[Except as provided in Subsection (5), an]~~ An actor commits manslaughter if the actor:
- (a) recklessly causes the death of another individual; or
 - ~~[(b) intentionally, and with knowledge that another individual intends to commit suicide or attempt to commit suicide, aids the individual to commit suicide; or]~~
 - ~~[(e)]~~ (b) commits a homicide which would be murder, but the offense is reduced in accordance with Subsection 76-5-203(4).
- (3) A violation of Subsection (2) is a ~~[felony of the]~~second degree felony.
- (4)(a) In addition to the penalty described under this section or any other section, [a defendant] an actor who is convicted of violating this section shall have the [defendant's] actor's driver license revoked under Section 53-3-220 if the death of another individual results from driving a motor vehicle.
- (b) The court shall forward the report of the conviction resulting from driving a motor vehicle to the Driver License Division in accordance with Section 53-3-218.
- ~~[(5)(a) A practitioner does not violate Subsection (2)(b) if the practitioner provides medication or a procedure to treat an individual's illness or relieve an individual's pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual to whom the practitioner provides the medication or procedure.]~~
- ~~[(b) Notwithstanding Subsection (5)(a), a practitioner violates Subsection (2)(b) if the practitioner intentionally and knowingly provides the medication or procedure to aid the individual to commit suicide or attempt to commit suicide.]~~

Section 11. Section **76-5-211** is enacted to read:

76-5-211 . Aiding or encouraging suicide.

- (1)(a) As used in this section:
- (i)(A) "Aid" means the act of providing the physical means.
 - (B) "Aid" does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under Title 75A, Chapter 9, Uniform Health Care Decisions Act, or any other laws of this state.
 - (ii) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.
 - (iii) "Provides" means to administer, prescribe, distribute, or dispense.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aiding or encouraging suicide if:

(a) the actor intentionally, and with knowledge that another individual intends to die by suicide or attempt to die by suicide, aids the individual to die by suicide; or

(b)(i) the actor, on four or more separate occasions, intentionally encourages another individual to die by suicide;

(ii) the actor is reckless as to whether the actor's course of conduct described in Subsection (2)(b)(i) would imminently cause the individual to die by suicide or attempt to die by suicide after a fourth or subsequent encouragement to die by suicide; and

(iii) the individual described in Subsection (2)(b)(i) dies by suicide or attempts to die by suicide.

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

(4)(a) A practitioner does not violate Subsection (2)(a) if the practitioner provides medication or a procedure to treat an individual's illness or relieve an individual's pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual to whom the practitioner provides the medication or procedure.

(b) Notwithstanding Subsection (4)(a), a practitioner violates Subsection (2)(a) if the practitioner knowingly provides the medication or procedure to aid the individual to die by suicide or attempt to die by suicide.

Section 12. Section **76-5b-204** is amended to read:

76-5b-204 . Sexual extortion.

(1)(a) As used in this section:

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means ~~[any]~~ an individual under 18 years old.

(iii) "Counterfeit intimate image" means the same as that term is defined in Section 76-5b-205.

(iv) "Intimate image" means the same as that term is defined in Section 76-5b-203.

~~[(v) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.]~~

~~[(vi)]~~ (v) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

~~[(vii)]~~ (vi) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)[(a)] An actor commits the offense of sexual extortion if the actor:

[(+)] (a) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct;

(i) [~~-~~]communicates, by any means, a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image[~~-~~] or counterfeit intimate image[~~-or video~~] of the victim; or

(ii) after a request from the victim or a third party acting at the direction of the victim:

(A) declines to delete an intimate image or counterfeit intimate image of the victim from the actor's possession; or

(B) declines to remove or retract from an account managed by the actor on any website, application, or other electronic sharing platform, an intimate image or counterfeit intimate image of the victim previously posted or shared on the website, application, or other electronic sharing platform;

[(+)] (b) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct;

(i) [~~-by means of~~] by communicating, through any means, a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image[~~-~~] or counterfeit intimate image[~~-or video~~] of the victim; or

(ii) by declining, after receiving a request from the victim or a third party acting at the direction of the victim:

(A) to delete an intimate image or counterfeit intimate image of the victim from the actor's possession; or

(B) to remove or retract from an account managed by the actor on any website, application, or other electronic sharing platform, an intimate image or counterfeit intimate image of the victim previously posted or shared on the website, application, or other electronic sharing platform; or

[(+)] (c) with intent to obtain a thing of value from a victim or compel the victim to do any act or refrain from doing any act against the victim's will:

(i) [-]communicates, by any means, a threat to distribute an intimate image[;] or counterfeit intimate image[,-or-video] of the victim[;] ; or

(ii) after a request from the victim or a third party acting at the direction of the victim:

(A) declines to delete an intimate image or counterfeit intimate image of the victim from the actor's possession; or

(B) declines to remove or retract from an account managed by the actor on any website, application, or other electronic sharing platform, an intimate image or counterfeit intimate image of the victim previously posted or shared on the website, application, or other electronic sharing platform.

~~[(b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:]~~

~~[(i) the victim is a child or vulnerable adult;]~~

~~[(ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;]~~

~~[(iii) the victim suffered bodily injury or severe psychological injury during, or as a result of, the offense;]~~

~~[(iv) the actor was a stranger to the victim, or became a friend of the victim, for the purpose of committing the offense;]~~

~~[(v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;]~~

~~[(vi) the actor occupied a position of special trust in relation to the victim;]~~

~~[(vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or]~~

~~[(viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.]~~

(3)(a) If the actor is an adult[;]

[(i) a violation of Subsection [(2)(a)] (2) is a third degree felony[;] .

[(ii) a violation of Subsection (2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in which the victim is an adult is a second degree felony;]

[(iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first degree felony; or]

~~[(iv) a violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is a first degree felony.]~~

(b) If the actor is a child[;]

~~[(i)] a violation of Subsection [(2)(a)] (2) is a class A misdemeanor[; or] .~~

~~[(ii) a violation of Subsection (2)(b) is a third degree felony if there is more than a two-year age gap between the actor and the victim.]~~

~~[(e)] (4) An actor commits a separate offense under this section:~~

~~[(i)] (a) for each victim the actor subjects to the offense [outlined] described in Subsection [(2)(a)] (2); and~~

~~[(ii)] (b) for each separate time the actor subjects a victim to the offense [outlined] described in Subsection [(2)(a)] (2).~~

~~[(d)] (5) This section does not preclude an actor from being charged and convicted of a separate criminal act if the actor commits the separate criminal act while the [individual] actor violates or attempts to violate this section.~~

~~[(4)] (6) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.~~

Section 13. Section **76-5b-204.1** is enacted to read:

76-5b-204.1 . Aggravated sexual extortion.

(1)(a) As used in this section:

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means an individual under 18 years old.

(iii) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection 76-5b-204(2), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the victim is a child or vulnerable adult;

(b) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(c) the victim suffered bodily injury or severe psychological injury during, or as a result of, the offense;

- 1321 (d) the actor was a stranger to the victim, or became a friend of the victim, for the
1322 purpose of committing the offense;
- 1323 (e) the actor, before sentencing for the offense, was previously convicted of any sexual
1324 offense;
- 1325 (f) the actor occupied a position of special trust in relation to the victim;
- 1326 (g) the actor encouraged, aided, allowed, or benefited from:
- 1327 (i) acts of prostitution or sexual acts by the victim with any other individual;
1328 (ii) a sexual performance by the victim before any other individual; or
1329 (iii) human trafficking or human smuggling; or
- 1330 (h) the actor caused the penetration, however slight, of the genital or anal opening of the
1331 victim by any part or parts of the human body, or by any other object.
- 1332 (3)(a) If the actor is an adult:
- 1333 (i) a violation of Subsection (2) in which the victim is a child or a vulnerable adult is
1334 a first degree felony;
- 1335 (ii) a violation of Subsection (2)(c) in which the victim is an adult who is not a
1336 vulnerable adult is a first degree felony; or
- 1337 (iii) a violation of Subsection (2)(b), (d), (e), (f), (g), or (h) in which the victim is an
1338 adult who is not a vulnerable adult is a second degree felony.
- 1339 (b) If the actor is a child, a violation of Subsection (2) is a third degree felony if there is
1340 more than a two-year age gap between the actor and the victim.
- 1341 (4) This section does not preclude an actor from being charged and convicted of a separate
1342 criminal act if the actor commits the separate criminal act while the actor violates or
1343 attempts to violate this section.
- 1344 (5) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to
1345 liability under this section related to content provided by a user of the interactive
1346 computer service.

1347 Section 14. Section **76-17-401** is amended to read:

1348 **76-17-401 . Definitions.**

1349 As used in this part:

- 1350 (1)(a) "Enterprise" means an individual, sole proprietorship, partnership, corporation,
1351 business trust, association, or other legal entity, and a union or group of individuals
1352 associated in fact although not a legal entity.
- 1353 (b) "Enterprise" includes illicit as well as licit entities.
- 1354 (2) "Pattern of unlawful activity" means engaging in conduct that constitutes the

commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

- (3) "Person" includes an individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.
- (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct that would constitute an offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act that would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by an authority or is classified as a misdemeanor or a felony:
- (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;
 - (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;
 - (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;
 - (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;
 - (f) unlawful marking of pistol or revolver under Section 53-5a-105;
 - (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;
 - (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
 - (i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances

1389 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
1390 Chapter 37d, Clandestine Drug Lab Act;
1391 (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
1392 Securities Act;
1393 (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
1394 Procurement Code;
1395 (l) assault under Section 76-5-102;
1396 (m) aggravated assault under Section 76-5-103;
1397 (n) a threat of terrorism under Section 76-5-107.3;
1398 (o) a criminal homicide offense under Section 76-5-201;
1399 (p) kidnapping under Section 76-5-301;
1400 (q) aggravated kidnapping under Section 76-5-302;
1401 (r) human trafficking for labor under Section 76-5-308;
1402 (s) human trafficking for sexual exploitation under Section 76-5-308.1;
1403 (t) human smuggling under Section 76-5-308.3;
1404 (u) human trafficking of a child under Section 76-5-308.5;
1405 (v) benefiting from trafficking and human smuggling under Section 76-5-309;
1406 (w) aggravated human trafficking under Section 76-5-310;
1407 (x) sexual exploitation of a minor under Section 76-5b-201;
1408 (y) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
1409 (z) sexual extortion under Section 76-5b-204;
1410 (aa) aggravated sexual extortion under Section 76-5b-204.1;
1411 [~~aa~~] (bb) arson under Section 76-6-102;
1412 [~~bb~~] (cc) aggravated arson under Section 76-6-103;
1413 [~~ee~~] (dd) causing a catastrophe under Section 76-6-105;
1414 [~~dd~~] (ee) burglary under Section 76-6-202;
1415 [~~ee~~] (ff) aggravated burglary under Section 76-6-203;
1416 [~~ff~~] (gg) burglary of a vehicle under Section 76-6-204;
1417 [~~gg~~] (hh) manufacture or possession of an instrument for burglary or theft under
1418 Section 76-6-205;
1419 [~~hh~~] (ii) robbery under Section 76-6-301;
1420 [~~ii~~] (jj) aggravated robbery under Section 76-6-302;
1421 [~~jj~~] (kk) theft under Section 76-6-404;
1422 [~~kk~~] (ll) theft by deception under Section 76-6-405;

1423 [~~(hh)~~] (mm) theft by extortion under Section 76-6-406;
 1424 [~~(mm)~~] (nn) receiving stolen property under Section 76-6-408;
 1425 [~~(nn)~~] (oo) theft of services under Section 76-6-409;
 1426 [~~(oo)~~] (pp) forgery under Section 76-6-501;
 1427 [~~(pp)~~] (qq) unlawful use of financial transaction card under Section 76-6-506.2;
 1428 [~~(qq)~~] (rr) unlawful acquisition, possession, or transfer of financial transaction card under
 1429 Section 76-6-506.3;
 1430 [~~(rr)~~] (ss) financial transaction card offenses under Section 76-6-506.6;
 1431 [~~(ss)~~] (tt) deceptive business practices under Section 76-6-507;
 1432 [~~(tt)~~] (uu) bribery or receiving bribe by person in the business of selection, appraisal, or
 1433 criticism of goods under Section 76-6-508;
 1434 [~~(uu)~~] (vv) bribery of a labor official under Section 76-6-509;
 1435 [~~(vv)~~] (ww) defrauding creditors under Section 76-6-511;
 1436 [~~(ww)~~] (xx) acceptance of deposit by insolvent financial institution under Section
 1437 76-6-512;
 1438 [~~(xx)~~] (yy) unlawful dealing with property by fiduciary under Section 76-6-513;
 1439 [~~(yy)~~] (zz) unlawful influence of a contest under Section 76-6-514;
 1440 [~~(zz)~~] (aaa) making a false credit report under Section 76-6-517;
 1441 [~~(aaa)~~] (bbb) criminal simulation under Section 76-6-518;
 1442 [~~(bbb)~~] (ccc) criminal usury under Section 76-6-520;
 1443 [~~(ccc)~~] (ddd) insurance fraud under Section 76-6-521;
 1444 [~~(ddd)~~] (eee) retail theft under Section 76-6-602;
 1445 [~~(eee)~~] (fff) computer crimes under Section 76-6-703;
 1446 [~~(fff)~~] (ggg) identity fraud under Section 76-6-1102;
 1447 [~~(ggg)~~] (hhh) mortgage fraud under Section 76-6-1203;
 1448 [~~(hhh)~~] (iii) sale of a child under Section 76-7-203;
 1449 [~~(iii)~~] (jjj) bribery or offering a bribe under Section 76-8-103;
 1450 [~~(jjj)~~] (kkk) threat to influence official or political action under Section 76-8-104;
 1451 [~~(kkk)~~] (lll) receiving bribe or bribery by public servant under Section 76-8-105;
 1452 [~~(lll)~~] (mmm) receiving bribe for endorsement of person as a public servant under
 1453 Section 76-8-106;
 1454 [~~(mmm)~~] (nnn) bribery for endorsement of person as public servant under Section
 1455 76-8-106.1;
 1456 [~~(nnn)~~] (ooo) official misconduct based on unauthorized act or failure of duty under

1457 Section 76-8-201;
 1458 [~~(ooo)~~] (ppp) official misconduct concerning inside information under Section 76-8-202;
 1459 [~~(ppp)~~] (qqq) obstruction of justice in a criminal investigation or proceeding under
 1460 Section 76-8-306;
 1461 [~~(qqq)~~] (rrr) acceptance of bribe or bribery to prevent criminal prosecution under Section
 1462 76-8-308;
 1463 [~~(rrr)~~] (sss) harboring or concealing offender who has escaped from official custody
 1464 under Section 76-8-309.2;
 1465 [~~(sss)~~] (ttt) making a false or inconsistent material statement under Section 76-8-502;
 1466 [~~(ttt)~~] (uuu) making a false or inconsistent statement under Section 76-8-503;
 1467 [~~(uuu)~~] (vvv) making a written false statement under Section 76-8-504;
 1468 [~~(vvv)~~] (www) tampering with a witness under Section 76-8-508;
 1469 [~~(www)~~] (xxx) retaliation against a witness, victim, or informant under Section
 1470 76-8-508.3;
 1471 [~~(xxx)~~] (yyy) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 1472 [~~(yyy)~~] (zzz) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
 1473 [~~(zzz)~~] (aaa) tampering with evidence under Section 76-8-510.5;
 1474 [~~(aaa)~~] (bbb) falsification or alteration of a government record under Section 76-8-511,
 1475 if the record is a record described in Title 20A, Election Code, or Title 36, Chapter
 1476 11, Lobbyist Disclosure and Regulation Act;
 1477 [~~(bbb)~~] (ccc) public assistance fraud by an applicant for public assistance under
 1478 Section 76-8-1203.1;
 1479 [~~(ccc)~~] (ddd) public assistance fraud by a recipient of public assistance under Section
 1480 76-8-1203.3;
 1481 [~~(ddd)~~] (eee) public assistance fraud by a provider under Section 76-8-1203.5;
 1482 [~~(eee)~~] (fff) fraudulently misappropriating public assistance funds under Section
 1483 76-8-1203.7;
 1484 [~~(fff)~~] (ggg) false statement to obtain or increase unemployment compensation under
 1485 Section 76-8-1301;
 1486 [~~(ggg)~~] (hhh) false statement to prevent or reduce unemployment compensation or
 1487 liability under Section 76-8-1302;
 1488 [~~(hhh)~~] (iii) unlawful failure to comply with Employment Security Act requirements
 1489 under Section 76-8-1303;
 1490 [~~(iii)~~] (jjj) unlawful use or disclosure of employment information under Section

1491 76-8-1304;
 1492 [~~(jjjj)~~] (kkkk) intentionally or knowingly causing one animal to fight with another under
 1493 Subsection 76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning
 1494 dog fighting;
 1495 [~~(kkkk)~~] (llll) soliciting, recruiting, enticing, or intimidating a minor to join a criminal
 1496 street gang under Section 76-9-803;
 1497 [~~(llll)~~] (mmmm) aggravated soliciting, recruiting, enticing, or intimidating a minor to join
 1498 a criminal street gang under Section 76-9-803.1;
 1499 [~~(mmmm)~~] (nnnn) intimidating a minor to remain in a criminal street gang under Section
 1500 76-9-803.2;
 1501 [~~(nnnn)~~] (oooo) aggravated intimidating a minor to remain in a criminal street gang under
 1502 Section 76-9-803.3;
 1503 [~~(oooo)~~] (pppp) unlawful conduct involving an explosive, chemical, or incendiary device
 1504 under Section 76-15-210;
 1505 [~~(pppp)~~] (qqqq) unlawful conduct involving an explosive, chemical, or incendiary part
 1506 under Section 76-15-211;
 1507 [~~(qqqq)~~] (rrrr) unlawful delivery or mailing of an explosive, chemical, or incendiary
 1508 device under Section 76-15-209;
 1509 [~~(rrrr)~~] (ssss) forging or counterfeiting trademarks, trade name, or trade device under
 1510 Section 76-16-302;
 1511 [~~(ssss)~~] (tttt) selling goods under counterfeited trademark, trade name, or trade devices
 1512 under Section 76-16-303;
 1513 [~~(tttt)~~] (uuuu) sales in containers bearing registered trademark of substituted articles
 1514 under Section 76-16-304;
 1515 [~~(uuuu)~~] (vvvv) selling or dealing with article bearing registered trademark or service
 1516 mark with intent to defraud under Section 76-16-306;
 1517 [~~(vvvv)~~] (wwww) participating in gambling under Section 76-9-1402;
 1518 [~~(wwww)~~] (xxxx) permitting gambling under Section 76-9-1403;
 1519 [~~(xxxx)~~] (yyyy) online gambling prohibition under Section 76-9-1404;
 1520 [~~(yyyy)~~] (zzzz) gambling promotion under Section 76-9-1405;
 1521 [~~(zzzz)~~] (aaaa) gambling fraud under Section 76-9-1406;
 1522 [~~(aaaa)~~] (bbbb) possessing a gambling device or record under Section 76-9-1407;
 1523 [~~(bbbb)~~] (cccc) obtaining a benefit from a confidence game under Section 76-9-1410;
 1524 [~~(cccc)~~] (dddd) distributing pornographic material under Section 76-5c-202;

1525 [~~(ddddd)~~] (eeeee) aiding or abetting a minor in distributing pornographic material under
 1526 Section 76-5c-203;
 1527 [~~(eeee)~~] (ffff) inducing acceptance of pornographic material under Section 76-5c-204;
 1528 [~~(ffff)~~] (ggggg) distributing material harmful to minors under Section 76-5c-205;
 1529 [~~(ggggg)~~] (hhhhh) aiding or abetting a minor in distributing material harmful to minors
 1530 under Section 76-5c-206;
 1531 [~~(hhhhh)~~] (iiii) distribution of a pornographic file for exhibition under Section 76-5c-305;
 1532 [~~(iiii)~~] (jjjj) indecent public display in the presence of a minor under Section 76-5c-207;
 1533 [~~(jjjj)~~] (kkkkk) engaging in prostitution under Section 76-5d-202;
 1534 [~~(kkkkk)~~] (llll) aiding prostitution under Section 76-5d-206;
 1535 [~~(llll)~~] (mmmmm) exploiting prostitution under Section 76-5d-207;
 1536 [~~(mmmmm)~~] (nnnnn) aggravated exploitation of prostitution under Section 76-5d-208;
 1537 [~~(nnnnn)~~] (ooooo) communications fraud under Section 76-6-525;
 1538 [~~(ooooo)~~] (ppppp) possession of a dangerous weapon with criminal intent under Section
 1539 76-11-208;
 1540 [~~(ppppp)~~] (qqqqq) an act prohibited by the criminal provisions of Chapter 9, Part 16,
 1541 Money Laundering and Currency Transaction Reporting;
 1542 [~~(qqqqq)~~] (rrrrr) vehicle compartment for contraband under Section 76-9-1902 or
 1543 76-9-1903;
 1544 [~~(rrrrr)~~] (sssss) an act prohibited by the criminal provisions of the laws governing
 1545 taxation in this state; or
 1546 [~~(sssss)~~] (ttttt) an act illegal under the laws of the United States and enumerated in 18
 1547 U.S.C. Secs. 1961(1)(B), (C), and (D).

1548 Section 15. Section **77-22-2.5** is amended to read:

1549 **77-22-2.5 . Court orders for criminal investigations for records concerning an**
 1550 **electronic communications system or service or remote computing service -- Content --**
 1551 **Fee for providing information.**

1552 (1) As used in this section:

1553 (a)(i) "Electronic communication" means any transfer of signs, signals, writing,
 1554 images, sounds, data, or intelligence of any nature transmitted in whole or in part
 1555 by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

1556 (ii) "Electronic communication" does not include:

1557 (A) a wire or oral communication;

1558 (B) a communication made through a tone-only paging device;

- 1559 (C) a communication from a tracking device; or
- 1560 (D) electronic funds transfer information stored by a financial institution in a
- 1561 communications system used for the electronic storage and transfer of funds.
- 1562 (b) "Electronic communications service" means a service which provides for users the
- 1563 ability to send or receive wire or electronic communications.
- 1564 (c) "Electronic communications system" means a wire, radio, electromagnetic,
- 1565 photooptical, or photoelectronic facilities for the transmission of wire or electronic
- 1566 communications, and a computer facilities or related electronic equipment for the
- 1567 electronic storage of the communication.
- 1568 (d) "Internet service provider" means the same as that term is defined in Section
- 1569 76-5c-401.
- 1570 (e) "Prosecutor" means the same as that term is defined in Section 77-22-4.5.
- 1571 (f) "Remote computing service" means the provision to the public of computer storage
- 1572 or processing services by means of an electronic communications system.
- 1573 (g)(i) "Sexual offense against a minor" means:
- 1574 (A) sexual exploitation of a minor or attempted sexual exploitation of a minor in
- 1575 violation of Section 76-5b-201;
- 1576 (B) aggravated sexual exploitation of a minor or attempted aggravated sexual
- 1577 exploitation of a minor in violation of Section 76-5b-201.1;
- 1578 (C) a sexual offense or attempted sexual offense committed against a minor in
- 1579 violation of Title 76, Chapter 5, Part 4, Sexual Offenses;
- 1580 (D) dealing in or attempting to deal in material harmful to a minor in violation of
- 1581 Section 76-5c-205 or 76-5c-206;
- 1582 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 1583 (F) aggravated sexual extortion of a child in violation of Section ~~76-5b-204~~
- 1584 76-5b-204.1.
- 1585 (ii) "Sexual offense against a minor" does not include an offense described in Section
- 1586 76-5-418, 76-5-419, or 76-5-420.
- 1587 (2) When a law enforcement agency is investigating a sexual offense against a minor, an
- 1588 offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under
- 1589 Section 76-5-301.1, and has reasonable suspicion that an electronic communications
- 1590 system or service or remote computing service has been used in the commission of a
- 1591 criminal offense, a law enforcement agent shall:
- 1592 (a) articulate specific facts showing reasonable grounds to believe that the records or

other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec. 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the [~~Internet~~] internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier is suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including a temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce a record under Subsections (2)(c)(i) through (v) that is reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4)(a) An electronic communications system or service or remote computing service provider that provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that the provider does not have the information.

(7) There is no cause of action against a provider or wire or electronic communication

service, or the provider or service's officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8)(a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) A prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

- (a) the number of requests for court orders authorized by the prosecutorial agency;
- (b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and
- (c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 16. Section **77-23a-8** is amended to read:

77-23a-8 . Court order to authorize or approve interception -- Procedure.

- (1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.
- (2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:
 - (a) an act:
 - (i) prohibited by the criminal provisions of:
 - (A) Title 58, Chapter 37, Utah Controlled Substances Act;
 - (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
 - (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
 - (ii) punishable by a term of imprisonment of more than one year;
 - (b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

- 1661 (c) an offense:
- 1662 (i) of:
- 1663 (A) attempt under Section 76-4-101;
- 1664 (B) conspiracy under Section 76-4-201;
- 1665 (C) criminal solicitation of an adult, Section 76-4-203; or
- 1666 (D) criminal solicitation of a minor, Section 76-4-205; and
- 1667 (ii) punishable by a term of imprisonment of more than one year;
- 1668 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of
- 1669 more than one year under Section 76-5-107.3;
- 1670 (e)(i) aggravated murder under Section 76-5-202;
- 1671 (ii) murder under Section 76-5-203;[~~or~~]
- 1672 (iii) manslaughter under Section 76-5-205; or
- 1673 (iv) aiding or encouraging suicide under Section 76-5-211;
- 1674 (f)(i) kidnapping under Section 76-5-301;
- 1675 (ii) child kidnapping under Section 76-5-301.1;
- 1676 (iii) aggravated kidnapping under Section 76-5-302;
- 1677 (iv) human trafficking for labor under Section 76-5-308;
- 1678 (v) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1679 (vi) human trafficking of a child under Section 76-5-308.5;
- 1680 (vii) human smuggling under Section 76-5-308.3;
- 1681 (viii) aggravated human trafficking under Section 76-5-310; or
- 1682 (ix) aggravated human smuggling under Section 76-5-310.1;
- 1683 (g)(i) arson under Section 76-6-102; or
- 1684 (ii) aggravated arson under Section 76-6-103;
- 1685 (h)(i) burglary under Section 76-6-202; or
- 1686 (ii) aggravated burglary under Section 76-6-203;
- 1687 (i)(i) robbery under Section 76-6-301; or
- 1688 (ii) aggravated robbery under Section 76-6-302;
- 1689 (j) an offense:
- 1690 (i) of:
- 1691 (A) theft under Section 76-6-404;
- 1692 (B) theft by deception under Section 76-6-405; or
- 1693 (C) theft by extortion under Section 76-6-406; and
- 1694 (ii) punishable by a maximum term of imprisonment of more than one year;

- (k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year under Section 76-6-408;
- (l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;
- (m) bribery of a labor official under Section 76-6-509;
- (n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;
- (o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-518;
- (p) criminal usury under Section 76-6-520;
- (q) insurance fraud punishable by a maximum term of imprisonment of more than one year under Section 76-6-521;
- (r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year under Section 76-6-703;
- (s) bribery to influence official or political actions under Section 76-8-103;
- (t) misusing public money or public property under Section 76-8-402;
- (u) tampering with a witness under Section 76-8-508;
- (v) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- (w) tampering or retaliating against a juror under Section 76-8-508.5;
- (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- (y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- (z) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- (aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
- (bb) destruction of property to interfere with preparations for defense or war under Section 76-8-802;
- (cc) an attempt to commit crimes of sabotage under Section 76-8-804;
- (dd) conspiracy to commit crimes of sabotage under Section 76-8-805;
- (ee) advocating criminal syndicalism or sabotage under Section 76-8-902;
- (ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;
- (gg) riot punishable by a maximum term of imprisonment of more than one year under Section 76-9-101;
- (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year under Section 76-13-205;

- (ii) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device under Section 76-15-209;
- (jj) unlawful conduct involving an explosive, chemical, or incendiary device under Section 76-15-210;
- (kk) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;
- (ll) exploiting prostitution under Section 76-5d-207;
- (mm) aggravated exploitation of prostitution under Section 76-5d-208;
- (nn) bus hijacking under Section 76-9-1502;
- (oo) assault with intent to commit bus hijacking under Section 76-9-1503;
- (pp) unlawful discharge of a firearm or hurling of a missile into a bus or terminal under Section 76-9-1504;
- (qq) violations under Title 76, Chapter 17, Part 4, Offenses Concerning [~~a-Pattern~~ Patterns of Unlawful Activity, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act under Section 76-17-401;
- (rr) communications fraud under Section 76-6-525;
- (ss) money laundering under Sections 76-9-1602 and 76-9-1603; or
- (tt) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year under Section 76-9-1604.
- Section 17. Section **77-36-1** is amended to read:

77-36-1 . Definitions.

As used in this chapter:

- (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- (2) "Department" means the Department of Public Safety.
- (3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4, Part 4, Divorce.
- (4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.
- (b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

- 1763 (i) aggravated assault under Section 76-5-103;
1764 (ii) aggravated cruelty to an animal under Section 76-13-203, with the intent to harass
1765 or threaten the other cohabitant;
1766 (iii) assault under Section 76-5-102;
1767 (iv) criminal homicide under Section 76-5-201;
1768 (v) harassment under Section 76-5-106;
1769 (vi) electronic communication harassment under Sections 76-12-202, 76-12-203, and
1770 76-12-204;
1771 (vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301,
1772 76-5-301.1, and 76-5-302;
1773 (viii) mayhem under Section 76-5-105;
1774 (ix) propelling a bodily substance or material, as described in Section 76-5-102.9;
1775 (x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual
1776 exploitation of a minor and aggravated sexual exploitation of a minor, as
1777 described in Sections 76-5b-201 and 76-5b-201.1;
1778 (xi) stalking under Section 76-5-106.5;
1779 (xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;
1780 (xiii) violation of a protective order or ex parte protective order under Section
1781 76-5-108;
1782 (xiv) an offense against property under Title 76, Chapter 6, Part 1, Property
1783 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title
1784 76, Chapter 6, Part 3, Robbery;
1785 (xv) disorderly conduct under Section 76-9-102, if a conviction or adjudication of
1786 disorderly conduct is the result of a plea agreement in which the perpetrator was
1787 originally charged with a domestic violence offense otherwise described in this
1788 Subsection (4), except that a conviction or adjudication of disorderly conduct as a
1789 domestic violence offense, in the manner described in this Subsection (4)(b)(xv),
1790 does not constitute a misdemeanor crime of domestic violence under 18 U.S.C.
1791 Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;
1792 (xvi) child abuse under Section 76-5-114;
1793 (xvii) threatening violence under Section 76-5-107;
1794 (xviii) sexual extortion under Section 76-5b-204;
1795 (xix) aggravated sexual extortion under Section 76-5b-204.1;
1796 [(xviii)] (xx) tampering with a witness under Section 76-8-508;

1797 [~~(xi)~~] (xxi) retaliation against a witness, victim, or informant under Section
 1798 76-8-508.3;
 1799 [~~(x)~~] (xxii) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 1800 [~~(xxi)~~] (xxiii) unlawful distribution of an intimate image under Section 76-5b-203;
 1801 [~~(xxii)~~] (xxiv) unlawful distribution of a counterfeit intimate image under Section
 1802 76-5b-205;
 1803 [~~(xxiii)~~] (xxv) threatening with or using a dangerous weapon in a fight or quarrel
 1804 under Section 76-11-207;
 1805 [~~(xxiv)~~] (xxvi) possession of a dangerous weapon with criminal intent under Section
 1806 76-11-208;
 1807 [~~(xxv)~~] (xxvii) improper discharging of a dangerous weapon under Section 76-11-209;
 1808 [~~(xxvi)~~] (xxviii) voyeurism under Section 76-12-306;
 1809 [~~(xxvii)~~] (xxix) recorded or photographed voyeurism under Section 76-12-307;
 1810 [~~(xxviii)~~] (xxx) distribution of images obtained through voyeurism under Section
 1811 76-12-308;
 1812 [~~(xxix)~~] (xxxi) damage to or interruption of a communication device under Section
 1813 76-6-108; or
 1814 [~~(xxx)~~] (xxxii) an offense under Subsection 78B-7-806(1).

1815 (c) "Domestic violence" or "domestic violence offense" does not include:

- 1816 (i) enticing a minor under Section 76-5-417;
- 1817 (ii) lewdness under in Section 76-5-419; or
- 1818 (iii) lewdness involving a child under Section 76-5-420.

1819 (5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

1820 (6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

1821 (7) "Marital status" means married and living together, divorced, separated, or not married.

1822 (8) "Married and living together" means a couple whose marriage was solemnized under
 1823 Section 81-2-305 or 81-2-407 and who are living in the same residence.

1824 (9) "Not married" means any living arrangement other than married and living together,
 1825 divorced, or separated.

1826 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

1827 (11) "Pretrial protective order" means a written order:

- 1828 (a) specifying and limiting the contact a person who has been charged with a domestic
 1829 violence offense may have with an alleged victim or other specified individuals; and
- 1830 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,

pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 81-2-305 or 81-2-407 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 18. Section **80-6-712** is amended to read:

80-6-712 . Time periods for supervision of probation or placement --

Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

- (a) if the minor is placed on intake probation, no more than three months; or
- (b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2)(a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

- (i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and
- (ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

- (i) in the home of a qualifying relative or guardian;
- (ii) at an independent living program contracted or operated by the division; or
- (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(3) If the juvenile court orders a minor to secure care, the authority shall:

- (a) have jurisdiction over the minor's case; and
- (b) apply the provisions of Part 8, Commitment and Parole.

(4)(a) The juvenile court shall terminate continuing jurisdiction over a minor's case at

the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:

- (i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
- (ii) the minor commits a new misdemeanor or felony offense;
- (iii) the minor has not completed community or compensatory service hours;
- (iv) there is an outstanding fine; or
- (v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

- (i) the recommendations of the licensed service provider for the treatment program;
- (ii) the minor's record in the treatment program; and
- (iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

- (a) one time for no more than three months; and
- (b) as intake probation.

(7)(a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

- (A) extend jurisdiction up to four times for no more than three months at a time;
- (B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under this Subsection (7)(a)(i); and
- (C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

(8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-211, aiding or encouraging suicide;

~~[(j)]~~ (k) Section 76-5-302, aggravated kidnapping;

~~[(k)]~~ (l) Section 76-5-405, aggravated sexual assault;

~~[(l)]~~ (m) a felony violation of Section 76-6-103, aggravated arson;

~~[(m)]~~ (n) Section 76-6-203, aggravated burglary;

~~[(n)]~~ (o) Section 76-6-302, aggravated robbery;

~~[(o)]~~ (p) Section 76-11-210, felony discharge of a firearm;

~~[(p)]~~ (q)(i) an offense other than an offense listed in Subsections (10)(a) through ~~[(o)]~~

(p) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

1933 ~~[(q)]~~ (r) a felony offense other than an offense listed in Subsections (10)(a) through ~~[(p)]~~
1934 (q) and the minor has been previously committed to the division for secure care.

1935 Section 19. Section **80-6-804** is amended to read:

1936 **80-6-804 . Review and termination of secure care.**

- 1937 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
1938 offender shall appear before the authority within 45 days after the day on which the
1939 juvenile offender is ordered to secure care for review of a treatment plan and to establish
1940 parole release guidelines.
- 1941 (2)(a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is
1942 ordered to secure care under Section 80-6-705, the authority shall set a presumptive
1943 term of secure care for the juvenile offender from three to six months, but the
1944 presumptive term may not exceed six months.
- 1945 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1946 authority may immediately release the juvenile offender on parole if there is a
1947 treatment program available for the juvenile offender in a community-based setting.
- 1948 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile
1949 offender on parole at the end of the presumptive term of secure care unless:
- 1950 (i) termination would interrupt the completion of a treatment program determined to
1951 be necessary by the results of a validated risk and needs assessment under Section
1952 80-6-606; or
- 1953 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 1954 (d) The authority shall determine whether a juvenile offender has completed a treatment
1955 program under Subsection (2)(c)(i) by considering:
- 1956 (i) the recommendations of the licensed service provider for the treatment program;
1957 (ii) the juvenile offender's record in the treatment program; and
1958 (iii) the juvenile offender's completion of the goals of the treatment program.
- 1959 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
1960 secure care and delay parole release for the time needed to address the specific
1961 circumstance if one of the circumstances under Subsection (2)(c) exists.
- 1962 (f) The authority shall:
- 1963 (i) record the length of the extension and the grounds for the extension; and
1964 (ii) report annually the length and grounds of extension to the commission.
- 1965 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
1966 juvenile court and the division.

- (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:
- (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or
 - (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.
- (3)(a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.
- (b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:
- (i) in the home of a qualifying relative or guardian;
 - (ii) at an independent living program contracted or operated by the division; or
 - (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
- (c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:
- (i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
 - (ii) the juvenile offender commits a new misdemeanor or felony offense; or
 - (iii) restitution has not been completed.
- (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:
- (i) the recommendations of the licensed service provider;
 - (ii) the juvenile offender's record in the treatment program; and
 - (iii) the juvenile offender's completion of the goals of the treatment program.
- (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

- (f) The authority shall:
- (i) record the grounds for extension of the presumptive length of parole and the length of the extension; and
 - (ii) report annually the extension and the length of the extension to the commission.
- (g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.
- (h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.
- (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
- (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
 - (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
 - (c) Section 76-5-203, murder or attempted murder;
 - (d) Section 76-5-205, manslaughter;
 - (e) Section 76-5-206, negligent homicide;
 - (f) Section 76-5-207, automobile homicide;
 - (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;
 - (h) Section 76-5-208, child abuse homicide;
 - (i) Section 76-5-209, homicide by assault;
 - (j) Section 76-5-211, aiding or encouraging suicide;
 - ~~[(j)]~~ (k) Section 76-5-302, aggravated kidnapping;
 - ~~[(k)]~~ (l) Section 76-5-405, aggravated sexual assault;
 - ~~[(l)]~~ (m) a felony violation of Section 76-6-103, aggravated arson;
 - ~~[(m)]~~ (n) Section 76-6-203, aggravated burglary;
 - ~~[(n)]~~ (o) Section 76-6-302, aggravated robbery;
 - ~~[(o)]~~ (p) Section 76-11-210, felony discharge of a firearm;
 - ~~[(p)]~~ (q)(i) an offense other than an offense listed in Subsections (4)(a) through ~~[(o)]~~ (p) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
 - (ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
 - ~~[(q)]~~ (r) an offense other than an offense listed in Subsections (4)(a) through ~~[(p)]~~ (q) and the juvenile offender has been previously ordered to secure care.

Section 20. **Effective Date.**

2035 This bill takes effect on May 6, 2026.