

**Human Trafficking, Exploitation, and Smuggling Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Calvin R. Musselman**

House Sponsor: Ryan D. Wilcox

---

**LONG TITLE****Committee Note:**

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 5 absent

**General Description:**

This bill concerns human labor trafficking, human trafficking for sexual exploitation, and human smuggling.

**Highlighted Provisions:**

This bill:

- defines terms;
- removes the applicability of statutory defenses to offenses concerning human trafficking or human smuggling;
- repeals a freestanding definition section and incorporates the repealed section's definitions into the human smuggling offenses in which the terms are referenced;
- amends the following offenses concerning human trafficking, including revising the name and elements of the offense, and, for some offenses, requiring specific conduct for a violation:
  - human trafficking for labor;
  - human trafficking for sexual exploitation;
  - human trafficking of a child (for labor and for sexual exploitation); and
  - human trafficking of a vulnerable adult (for labor and for sexual exploitation);
- divides the offense of aggravated human trafficking for labor or sexual exploitation into two separate offenses;
- revises the offense of benefiting from human trafficking or human smuggling:
  - to no longer be a separate criminal offense by removing penalty provisions; and
  - to add human trafficking offenses concerning vulnerable adults to the list of offenses included in the statute;
- creates the following new offenses:

- patronizing a victim of human labor trafficking;
  - patronizing a child victim of human labor trafficking; and
  - patronizing a vulnerable adult victim of human labor trafficking;
- amends the offenses of human smuggling and aggravated human smuggling to incorporate definitions from the repealed freestanding definitions section;
  - changes cross references in other statutes referencing human trafficking offenses to include citations to additional trafficking and patronizing offenses; 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  
**53-10-403**, as last amended by Laws of Utah 2025, Chapters 173, 208 and 291  
**53-29-202**, as enacted by Laws of Utah 2025, Chapter 291  
**53-29-203**, as enacted by Laws of Utah 2025, Chapter 291  
**53-29-205**, as enacted by Laws of Utah 2025, Chapter 291  
**53G-6-603**, as last amended by Laws of Utah 2024, Chapters 113, 381  
**76-1-301**, as last amended by Laws of Utah 2025, Chapters 173, 174  
**76-2-304.5**, as last amended by Laws of Utah 2025, Chapters 173, 174  
**76-3-203.19**, as enacted by Laws of Utah 2025, Chapter 185  
**76-3-203.20**, as enacted by Laws of Utah 2025, Chapter 519  
**76-5-305**, as last amended by Laws of Utah 2022, Chapter 181  
**76-5-308**, as last amended by Laws of Utah 2022, Chapter 181  
**76-5-308.1**, as last amended by Laws of Utah 2025, Chapter 262  
**76-5-308.5**, as last amended by Laws of Utah 2025, Chapter 262  
**76-5-309**, as last amended by Laws of Utah 2025, Chapter 262  
**76-5-310**, as last amended by Laws of Utah 2025, Chapter 262  
**76-5-311**, as last amended by Laws of Utah 2025, Chapter 262  
**76-5-417**, as renumbered and amended by Laws of Utah 2025, Chapter 173  
**76-5d-106**, as renumbered and amended by Laws of Utah 2025, Chapters 173, 174  
**76-5d-208**, as renumbered and amended by Laws of Utah 2025, Chapters 173, 174

65 **76-5d-211**, as enacted by Laws of Utah 2025, Chapter 174  
66 **76-14-202**, as renumbered and amended by Laws of Utah 2025, Chapter 173  
67 **76-17-401**, as renumbered and amended by Laws of Utah 2025, Chapter 173  
68 **77-22-2.5**, as last amended by Laws of Utah 2025, Chapter 173  
69 **77-23a-8**, as last amended by Laws of Utah 2025, Chapters 173, 174  
70 **77-38-3**, as last amended by Laws of Utah 2025, Chapters 173, 174 and 214  
71 **77-38-601**, as last amended by Laws of Utah 2025, Chapter 173  
72 **78B-3-113**, as renumbered and amended by Laws of Utah 2024, Chapter 331  
73 **78B-7-201**, as last amended by Laws of Utah 2021, Chapter 262  
74 **78B-7-502**, as last amended by Laws of Utah 2025, Chapter 173  
75 **80-1-102**, as last amended by Laws of Utah 2025, Chapter 426  
76 **80-2-301**, as last amended by Laws of Utah 2025, Chapters 173, 174  
77 **80-3-406**, as last amended by Laws of Utah 2025, Chapters 48, 291 and 447  
78 **81-9-402**, as last amended by Laws of Utah 2025, Chapter 426  
79 **81-13-203**, as renumbered and amended by Laws of Utah 2025, Chapter 426

## 80 ENACTS:

81 **76-5-308.6**, Utah Code Annotated 1953  
82 **76-5-310.2**, Utah Code Annotated 1953  
83 **76-5-312**, Utah Code Annotated 1953  
84 **76-5-313**, Utah Code Annotated 1953  
85 **76-5-314**, Utah Code Annotated 1953  
86 **76-5-315**, Utah Code Annotated 1953

## 87 RENUMBERS AND AMENDS:

88 **76-5-316**, (Renumbered from 76-5-308.3, as enacted by Laws of Utah 2022,  
89 Chapter 181)  
90 **76-5-317**, (Renumbered from 76-5-310.1, as enacted by Laws of Utah 2022,  
91 Chapter 181)

## 92 REPEALS:

93 **76-5-307**, as last amended by Laws of Utah 2022, Chapter 181  
94

---

---

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

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

97 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

98 (1) As used in this section:

- 99 (a)(i) "Applicant" means an individual who is associated with a certification,  
100 contract, or licensee with the department under this part and has direct access,  
101 including:
- 102 (A) an adoptive parent or prospective adoptive parent, including an applicant for  
103 an adoption in accordance with Section 78B-6-128;
  - 104 (B) a foster parent or prospective foster parent;
  - 105 (C) an individual who provides respite care to a foster parent or an adoptive parent  
106 on more than one occasion;
  - 107 (D) an individual who transports a child for a youth transportation company;
  - 108 (E) an individual who provides certified peer support, as defined in Section  
109 26B-5-610;
  - 110 (F) an individual who provides peer supports, has a disability or a family member  
111 with a disability, or is in recovery from a mental illness or a substance use  
112 disorder;
  - 113 (G) an individual who has lived experience with the services provided by the  
114 department, and uses that lived experience to provide support, guidance, or  
115 services to promote resiliency and recovery;
  - 116 (H) an individual who is identified as a mental health professional, licensed under  
117 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in  
118 the practice of mental health therapy, as defined in Section 58-60-102;
  - 119 (I) an individual, other than the child or vulnerable adult receiving the service,  
120 who is 12 years old or older and resides in a home, that is licensed or certified  
121 by the division;
  - 122 (J) an individual who is 12 years old or older and is associated with a certification,  
123 contract, or licensee with the department under this part and has or will likely  
124 have direct access;
  - 125 (K) a foster home licensee that submits an application for an annual background  
126 screening as required by Subsection 26B-2-105(4)(d)(iii); or
  - 127 (L) a short-term relief care provider.
- 128 (ii) "Applicant" does not include:
- 129 (A) an individual who is in the custody of the Division of Child and Family  
130 Services or the Division of Juvenile Justice and Youth Services;
  - 131 (B) an individual who applies for employment with, or is employed by, the  
132 Department of Health and Human Services;

- (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or
- (D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.
- (b) "Application" means a background check application to the office.
- (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.
- (d) "Criminal finding" means a record of:
- (i) an arrest for a criminal offense;
  - (ii) a warrant for a criminal arrest;
  - (iii) charges for a criminal offense; or
  - (iv) a criminal conviction.
- (e) "Direct access" means that an individual has, or likely will have:
- (i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or
  - (ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.
- (f)(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

- 167 described in Section 80-2-1001;
- 168 (ii) the Division of Child and Family Services' Licensing Information System
- 169 described in Section 80-2-1002;
- 170 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
- 171 exploitation database described in Section 26B-6-210;
- 172 (iv) juvenile court arrest, adjudication, and disposition records;
- 173 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 53,
- 174 Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
- 175 offender registry; or
- 176 (vi) a state child abuse or neglect registry.
- 177 (j) "Office" means the Office of Background Processing within the department.
- 178 (k) "Personal identifying information" means:
- 179 (i) current name, former names, nicknames, and aliases;
- 180 (ii) date of birth;
- 181 (iii) physical address and email address;
- 182 (iv) telephone number;
- 183 (v) driver license or other government-issued identification;
- 184 (vi) social security number;
- 185 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
- 186 specified by the office; and
- 187 (viii) other information specified by the office by rule made in accordance with Title
- 188 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 189 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
- 190 following to the office:
- 191 (a) personal identifying information;
- 192 (b) a fee established by the office under Section 63J-1-504;
- 193 (c) a disclosure form, specified by the office, for consent for:
- 194 (i) an initial background check upon association with a certification, contract, or
- 195 licensee with the department;
- 196 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 197 certification, contract, or licensee with the department for 180 days;
- 198 (iii) a background check when the office determines that reasonable cause exists; and
- 199 (iv) retention of personal identifying information, including fingerprints, for
- 200 monitoring and notification as described in Subsections (3)(c) and (4);

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

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

(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

- 235 or neglect described in Section 80-3-404 or 80-3-504; and
- 236 (viii) search the juvenile court arrest, adjudication, and disposition records, as
- 237 provided under Section 78A-6-209;
- 238 (b) may conduct all or portions of a background check in connection with determining
- 239 whether an applicant is direct access qualified, as provided by rule, made by the
- 240 office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 241 (i) for an annual renewal; or
- 242 (ii) when the office determines that reasonable cause exists;
- 243 (c) may submit an applicant's personal identifying information, including fingerprints, to
- 244 the bureau for checking, retaining, and monitoring of state and national criminal
- 245 background databases and for notifying the office of new criminal activity associated
- 246 with the applicant;
- 247 (d) shall track the status of an applicant under this section to ensure that the applicant is
- 248 not required to duplicate the submission of the applicant's fingerprints if the applicant
- 249 is associated with more than one certification, contract, or licensee with the
- 250 department;
- 251 (e) shall notify the bureau when a direct access qualified individual has not been
- 252 associated with a certification, contract, or licensee with the department for a period
- 253 of 180 days;
- 254 (f) shall adopt measures to strictly limit access to personal identifying information solely
- 255 to the individuals responsible for processing and entering the applications for
- 256 background checks and to protect the security of the personal identifying information
- 257 the office reviews under this Subsection (3);
- 258 (g) as necessary to comply with the federal requirement to check a state's child abuse
- 259 and neglect registry regarding any applicant working in a congregate care program,
- 260 shall:
- 261 (i) search the Division of Child and Family Services' Licensing Information System
- 262 described in Section 80-2-1002; and
- 263 (ii) require the child abuse and neglect registry be checked in each state where an
- 264 applicant resided at any time during the five years immediately preceding the day
- 265 on which the application is submitted to the office; and
- 266 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 267 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
- 268 background checks.



- 269 (4)(a) With the personal identifying information the office submits to the bureau under  
270 Subsection (3), the bureau shall check against state and regional criminal background  
271 databases for the applicant's criminal history.
- 272 (b) With the personal identifying information and fingerprints the office submits to the  
273 bureau under Subsection (3), the bureau shall check against national criminal  
274 background databases for the applicant's criminal history.
- 275 (c) Upon direction from the office, and with the personal identifying information and  
276 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 277 (i) maintain a separate file of the fingerprints for search by future submissions to the  
278 local and regional criminal records databases, including latent prints; and  
279 (ii) monitor state and regional criminal background databases and identify criminal  
280 activity associated with the applicant.
- 281 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of  
282 Investigation Next Generation Identification System, to be retained in the Federal  
283 Bureau of Investigation Next Generation Identification System for the purpose of:
- 284 (i) being searched by future submissions to the national criminal records databases,  
285 including the Federal Bureau of Investigation Next Generation Identification  
286 System and latent prints; and  
287 (ii) monitoring national criminal background databases and identifying criminal  
288 activity associated with the applicant.
- 289 (e) The bureau shall notify and release to the office all information of criminal activity  
290 associated with the applicant.
- 291 (f) Upon notice that an individual who has direct access qualified status will no longer  
292 be associated with a certification, contract, or licensee with the department, the  
293 bureau shall:
- 294 (i) discard and destroy any retained fingerprints; and  
295 (ii) notify the Federal Bureau of Investigation when the license has expired or an  
296 individual's direct access to a child or a vulnerable adult has ceased, so that the  
297 Federal Bureau of Investigation will discard and destroy the retained fingerprints  
298 from the Federal Bureau of Investigation Next Generation Identification System.
- 299 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access  
300 qualified status to an applicant who, within three years from the date on which the  
301 office conducts the background check, was convicted of:
- 302 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

- (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;
- (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;
- (C) sexual solicitation or prostitution;
- (D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;
- (E) an offense included in Title 76, Chapter 5, Part 1, 2, 3, 4, or 7;
- (F) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act, other than Section 76-5b-206;
- (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.

- 337 (ii) The office shall conduct a comprehensive review of an applicant described in  
338 Subsection (5)(b)(i) in accordance with Subsection (7).
- 339 (c) Subject to Subsection (5)(d), the office shall deny direct access qualified status to an  
340 applicant who:
- 341 (i) a court order prohibits from having direct access to a child or vulnerable adult; or  
342 (ii) is an applicant for a congregate care program and:
- 343 (A) is subject to an open investigation for a non-criminal finding; or  
344 (B) has a supported non-criminal finding, excluding a supported finding for  
345 dependency, as defined in Section 80-1-102, within three years from the date  
346 on which the office conducts the background check.
- 347 (d)(i) Subsection (5)(c) does not apply retrospectively for congregate care program  
348 employees who have an approved background screening on or before July 1,  
349 2025; or
- 350 (ii) notwithstanding Subsection (5)(c)(ii)(A), the division may grant temporary direct  
351 access qualified status to an applicant subject to a condition that the applicant is  
352 directly supervised at all times.
- 353 (6) The office shall conduct a comprehensive review of an applicant's background check if  
354 the applicant:
- 355 (a) has a felony or class A misdemeanor conviction that is more than three years from  
356 the date on which the office conducts the background check, for an offense described  
357 in Subsection (5)(a);
- 358 (b) has a felony charge or conviction that is no more than 10 years from the date on  
359 which the office conducts the background check for an offense not described in  
360 Subsection (5)(a);
- 361 (c) has a felony charge or conviction that is more than 10 years from the date on which  
362 the office conducts the background check, for an offense not described in Subsection  
363 (5)(a), with criminal or non-criminal findings after the date of the felony charge or  
364 conviction;
- 365 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than  
366 three years and no more than 10 years from the date on which the office conducts the  
367 background check for an offense described in Subsection (5)(a);
- 368 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10  
369 years from the date on which the office conducts the background check, for an  
370 offense described in Subsection (5)(a), with criminal or non-criminal findings after

- 371 the date of conviction;
- 372 (f) has a misdemeanor charge or conviction that is no more than three years from the  
373 date on which the office conducts the background check for an offense not described  
374 in Subsection (5)(a);
- 375 (g) has a misdemeanor charge or conviction that is more than three years from the date  
376 on which the office conducts the background check, for an offense not described in  
377 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or  
378 conviction;
- 379 (h) is currently subject to a plea in abeyance or diversion agreement for an offense  
380 described in Subsection (5)(a);
- 381 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title  
382 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex  
383 offender registry;
- 384 (j) has a record of an adjudication in juvenile court for an act that, if committed by an  
385 adult, would be a felony or misdemeanor, if the applicant is:
- 386 (i) under 28 years old; or
- 387 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is  
388 currently subject to a plea in abeyance or diversion agreement for a felony or a  
389 misdemeanor offense described in Subsection (5)(a);
- 390 (k) has a pending charge for an offense described in Subsection (5)(a);
- 391 (l) has a supported finding that occurred no more than 15 years from the date on which  
392 the office conducts the background check in the Division of Child and Family  
393 Services' Licensing Information System described in Section 80-2-1002;
- 394 (m) has a supported finding that occurred more than 15 years from the date on which the  
395 office conducts the background check in the Division of Child and Family Services'  
396 Licensing Information System described in Section 80-2-1002, with criminal or  
397 non-criminal findings after the date of the listing;
- 398 (n) has a listing that occurred no more than 15 years from the date on which the office  
399 conducts the background check in the Division of Aging and Adult Services'  
400 vulnerable adult abuse, neglect, or exploitation database described in Section  
401 26B-6-210;
- 402 (o) has a listing that occurred more than 15 years from the date on which the office  
403 conducts the background check in the Division of Aging and Adult Services'  
404 vulnerable adult abuse, neglect, or exploitation database described in Section

- 405 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 406 (p) has a substantiated finding that occurred no more than 15 years from the date on
- 407 which the office conducts the background check of severe child abuse or neglect
- 408 under Section 80-3-404 or 80-3-504; or
- 409 (q) has a substantiated finding that occurred more than 15 years from the date on which
- 410 the office conducts the background check of severe child abuse or neglect under
- 411 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
- 412 the listing.
- 413 (7)(a) The comprehensive review shall include an examination of:
- 414 (i) the date of the offense or incident;
- 415 (ii) the nature and seriousness of the offense or incident;
- 416 (iii) the circumstances under which the offense or incident occurred;
- 417 (iv) the age of the perpetrator when the offense or incident occurred;
- 418 (v) whether the offense or incident was an isolated or repeated incident;
- 419 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
- 420 adult, including:
- 421 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 422 (B) sexual abuse;
- 423 (C) sexual exploitation; or
- 424 (D) negligent treatment;
- 425 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
- 426 treatment received, or additional academic or vocational schooling completed;
- 427 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
- 428 which the applicant is applying; and
- 429 (ix) if the background check of an applicant is being conducted for the purpose of
- 430 giving direct access qualified status to an applicant seeking a position in a
- 431 congregate care program or to become a prospective foster or adoptive parent, any
- 432 listing in the Division of Child and Family Services' Management Information
- 433 System described in Section 80-2-1001.
- 434 (b) At the conclusion of the comprehensive review, the office shall deny direct access
- 435 qualified status to an applicant if the office finds the approval would likely create a
- 436 risk of harm to a child or vulnerable adult.
- 437 (8) The office shall grant direct access qualified status to an applicant who is not denied
- 438 under this section.

- 439 (9)(a) The office may conditionally grant direct access qualified status to an applicant,  
440 for a maximum of 60 days after the day on which the office sends written notice,  
441 without requiring that the applicant be directly supervised, if the office:
- 442 (i) is awaiting the results of the criminal history search of national criminal  
443 background databases; and
  - 444 (ii) would otherwise grant direct access qualified status to the applicant under this  
445 section.
- 446 (b) The office may conditionally grant direct access qualified status to an applicant, for a  
447 maximum of one year after the day on which the office sends written notice, without  
448 requiring that the applicant be directly supervised if the office:
- 449 (i) is awaiting the results of an out-of-state registry for providers other than foster and  
450 adoptive parents; and
  - 451 (ii) would otherwise grant direct access qualified status to the applicant under this  
452 section.
- 453 (c) Upon receiving the results of the criminal history search of a national criminal  
454 background database, the office shall grant or deny direct access qualified status to  
455 the applicant in accordance with this section.
- 456 (10)(a) Each time an applicant is associated with a licensee, the department shall review  
457 the current status of the applicant's background check to ensure the applicant is still  
458 eligible for direct access qualified status in accordance with this section.
- 459 (b) A licensee may not permit an individual to have direct access to a child or a  
460 vulnerable adult without being directly supervised unless:
- 461 (i) the individual is the parent or guardian of the child, or the guardian of the  
462 vulnerable adult;
  - 463 (ii) the individual is approved by the parent or guardian of the child, or the guardian  
464 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
  - 465 (iii) the individual is only permitted to have direct access to a vulnerable adult who  
466 voluntarily invites the individual to visit; or
  - 467 (iv) the individual only provides incidental care for a foster child on behalf of a foster  
468 parent who has used reasonable and prudent judgment to select the individual to  
469 provide the incidental care for the foster child.
- 470 (c) Notwithstanding any other provision of this section, an applicant who is denied direct  
471 access qualified status shall not have direct access to a child or vulnerable adult  
472 unless the office grants direct access qualified status to the applicant through a

subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12)(a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

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

(13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

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

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

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

- 507 (i) federal law or rule permits otherwise; or
- 508 (ii) the requirements would prohibit the Division of Child and Family Services or a
- 509 court from placing a child with:
- 510 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 511 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
- 512 or 80-3-303, pending completion of the background check described in
- 513 Subsections (5), (6), and (7).
- 514 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 515 qualified status if the applicant has been convicted of:
- 516 (i) a felony involving conduct that constitutes any of the following:
- 517 (A) child abuse, as described in Section 76-5-109;
- 518 (B) aggravated child abuse, as described in Section 76-5-109.2;
- 519 (C) child abandonment, as described in Section 76-5-109.3;
- 520 (D) child torture, as described in Section 76-5-109.4;
- 521 (E) commission of domestic violence in the presence of a child, as described in
- 522 Section 76-5-114;
- 523 (F) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 524 (G) intentional aggravated abuse of a vulnerable adult, as described in Section
- 525 76-5-111;
- 526 (H) endangerment of a child or vulnerable adult, as described in Section
- 527 76-5-112.5;
- 528 (I) aggravated murder, as described in Section 76-5-202;
- 529 (J) murder, as described in Section 76-5-203;
- 530 (K) manslaughter, as described in Section 76-5-205;
- 531 (L) child abuse homicide, as described in Section 76-5-208;
- 532 (M) homicide by assault, as described in Section 76-5-209;
- 533 (N) kidnapping, as described in Section 76-5-301;
- 534 (O) child kidnapping, as described in Section 76-5-301.1;
- 535 (P) aggravated kidnapping, as described in Section 76-5-302;
- 536 (Q) human trafficking of a child for labor, as described in Section 76-5-308.5;
- 537 (R) human trafficking of a child for commercial sexual exploitation, as described
- 538 in Section 76-5-308.6;
- 539 (S) patronizing a child victim of human labor trafficking, as described in Section
- 540 76-5-314;



- 541           ~~[(R)]~~ (T) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other  
542           than Section 76-5-417, 76-5-418, or 76-5-419;
- 543           ~~[(S)]~~ (U) sexual exploitation of a minor, as described in Title 76, Chapter 5b,  
544           Sexual Exploitation Act;
- 545           ~~[(F)]~~ (V) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 546           ~~[(U)]~~ (W) aggravated arson, as described in Section 76-6-103;
- 547           ~~[(V)]~~ (X) aggravated burglary, as described in Section 76-6-203;
- 548           ~~[(W)]~~ (Y) aggravated robbery, as described in Section 76-6-302;
- 549           ~~[(X)]~~ (Z) incest, as described in Section 76-7-102; or
- 550           ~~[(Y)]~~ (AA) domestic violence, as described in Section 77-36-1; or
- 551           (ii) an offense committed outside the state that, if committed in the state, would  
552           constitute a violation of an offense described in Subsection (13)(d)(i).
- 553           (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access  
554           qualified status to an applicant if, within the five years from the date on which the  
555           office conducts the background check, the applicant was convicted of a felony  
556           involving conduct that constitutes a violation of any of the following:
- 557           (i) aggravated assault, as described in Section 76-5-103;
- 558           (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 559           (iii) mayhem, as described in Section 76-5-105;
- 560           (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 561           (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 562           (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances  
563           Act;
- 564           (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance  
565           Precursor Act; or
- 566           (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 567           (f) In addition to the circumstances described in Subsection (6), the office shall conduct  
568           a comprehensive review of an applicant's background check under this section if the  
569           applicant:
- 570           (i) has an offense described in Subsection (5)(a);
- 571           (ii) has an infraction conviction entered on a date that is no more than three years  
572           before the date on which the office conducts the background check;
- 573           (iii) has a listing in the Division of Child and Family Services' Licensing Information  
574           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 **53-10-403** is amended to read:

**53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

- (a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;
- (b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;
- (c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);
- (d) a person who has been booked:
  - (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or
  - (ii) on or after January 1, 2015, for any felony offense; or
- (e) a minor:
  - (i)(A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after

- 609 July 1, 2002; or
- 610 (B) who is adjudicated by the juvenile court for an offense described in
- 611 Subsection (2) and is in the legal custody of the Division of Juvenile Justice
- 612 and Youth Services for the offense on or after July 1, 2002; and
- 613 (ii) who is 14 years old or older at the time of the commission of the offense
- 614 described in Subsection (2).
- 615 (2) Offenses referred to in Subsection (1) are:
- 616 (a) any felony or class A misdemeanor under the Utah Code;
- 617 (b) any offense under Subsection (2)(a):
- 618 (i) for which the court enters a judgment for conviction to a lower degree of offense
- 619 under Section 76-3-402; or
- 620 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
- 621 defined in Section 77-2a-1; or
- 622 (c)(i) any violent felony as defined in Section 53-10-403.5;
- 623 (ii) sale or use of body parts, Section 26B-8-315;
- 624 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 625 (iv) operating a motor vehicle with any amount of a controlled substance in an
- 626 individual's body and causing serious bodily injury or death, as codified before
- 627 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
- 628 58-37-8(2)(g);
- 629 (v) a felony violation of enticing a minor, Section 76-5-417;
- 630 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 631 (vii) a felony violation of propelling a substance or object at a correctional officer, a
- 632 peace officer, or an employee or a volunteer, including health care providers,
- 633 Section 76-5-102.6;
- 634 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 635 (ix) aggravated human trafficking, Section 76-5-310 or 76-5-310.2, and aggravated
- 636 human smuggling, Section ~~[76-5-310.1]~~ 76-5-317;
- 637 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 638 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 639 (xii) unlawful sexual contact with a 16 or 17[-] year old, Section 76-5-401.2;
- 640 (xiii) sale of a child, Section 76-7-203;
- 641 (xiv) aggravated escape, Section 76-8-309.3;
- 642 (xv) a felony violation of threatened or attempted assault on an elected official,

643           Section 76-8-313;

644           (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or

645           a member of the Board of Pardons and Parole or acting against a family member

646           of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

647           (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge

648           or a member of the Board of Pardons and Parole or acting against a family

649           member of a judge or a member of the Board of Pardons and Parole, Section

650           76-8-316.2;

651           (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate

652           against a judge or a member of the Board of Pardons and Parole or acting against

653           a family member of a judge or a member of the Board of Pardons and Parole,

654           Section 76-8-316.4;

655           (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate

656           against a judge or a member of the Board of Pardons and Parole or acting against

657           a family member of a judge or a member of the Board of Pardons and Parole,

658           Section 76-8-316.6;

659           (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

660           (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

661           (xxii) a felony violation of sexual battery, Section 76-5-418;

662           (xxiii) a felony violation of lewdness involving a child, Section 76-5-420;

663           (xxiv) a felony violation of abuse or desecration of a dead human body, Section

664           76-5-802;

665           (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section

666           76-15-302;

667           (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,

668           Section 76-15-303;

669           (xxvii) possession of a concealed firearm in the commission of a violent felony,

670           Subsection 76-11-202(3)(c);

671           (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon as

672           described in Subsection 76-9-1503(3)(b);

673           (xxix) aggravated commercial obstruction, Section 76-9-114;

674           (xxx) a felony violation of failure to register as a sex or kidnap offender, Section

675           53-29-305;

676           (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxxii) violation of condition for release after arrest under Section 78B-7-802.

Section 3. 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 commercial sexual exploitation under Section 76-5-308.1;

(vi) human trafficking of a child for commercial sexual exploitation under [ ~~Subsection 76-5-308.5(4)(b)] Section 76-5-308.6;~~

(vii) aggravated human trafficking for commercial sexual exploitation under Section [ ~~76-5-310] 76-5-310.2;~~

(viii) human trafficking of a vulnerable adult for commercial sexual exploitation under Section [ ~~76-5-311] 76-5-312;~~

(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) incest under Section 76-7-102;
- (xxvii) lewdness under Section 76-5-419, if the individual has been convicted of the offense four or more times;
- (xxviii) sexual battery under Section 76-5-418, if the individual has been convicted of the offense four or more times;
- (xxix) 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) lewdness involving a child under Section 76-5-420;
- (xxxi) 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) aggravated exploitation of prostitution under Section 76-5d-208;
- (xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;
- (xxxiv) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;
- (xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;
- (xxxvi) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;
- ~~[(xxxvii) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;]~~
- ~~[(xxxviii)]~~ (xxxvii) human trafficking of a child for labor under [Subsection 76-5-308.5(4)(a)] Section 76-5-308.5, if the offender was not the natural parent of the child victim;
- ~~[(xxxix)]~~ (xxxviii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

- 745           ~~[(xI) aggravated human smuggling under Section 76-5-310.1, if the offender was not~~  
746           ~~the natural parent of the child victim;]~~
- 747           ~~[(xli)]~~ (xxxix) human trafficking of a vulnerable adult for labor under Section  
748           76-5-311, if the offender was not the natural parent of the child victim;  
749           (xI) human smuggling under Section 76-5-316, if the offender was not the natural  
750           parent of the child victim;  
751           (xli) aggravated human smuggling under Section 76-5-317, if the offender was not  
752           the natural parent of the child victim; or  
753           (xlii) attempting, soliciting, or conspiring to commit a felony violation of an offense  
754           listed in Subsections (1)(a)(i) through ~~[(xI)]~~ (xli);
- 755       (b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or  
756       conspiracy to commit a criminal offense in an external jurisdiction that is  
757       substantially equivalent to the offense listed in Subsection (1)(a); and  
758       (ii)(A) is a Utah resident; or  
759           (B) is not a Utah resident and is in this state for a total of 10 days in a 12-month  
760           period, regardless of whether the individual intends to permanently reside in  
761           this state;
- 762       (c)(i)(A) is required to register on a registry in an external jurisdiction for  
763       individuals who have committed an offense listed in Subsection (1)(a) or a  
764       substantially equivalent offense;  
765           (B) is ordered by a court to register on a registry for individuals who have  
766           committed an offense listed in Subsection (1)(a) or a substantially equivalent  
767           offense; or  
768           (C) would be required to register on a registry in an external jurisdiction for  
769           individuals who have committed an offense listed in Subsection (1)(a), or a  
770           substantially equivalent offense, if residing in the external jurisdiction of the  
771           conviction regardless of the date of the conviction or a previous registration  
772           requirement; and  
773       (ii) is in this state for a total of 10 days in a 12-month period, regardless of whether  
774       the individual intends to permanently reside in this state;
- 775       (d)(i)(A) is a nonresident regularly employed or working in this state; or  
776           (B) who is a student in this state; and  
777       (ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially  
778       equivalent offense in an external jurisdiction; or

- 779 (B) is required to register on a sex, kidnap, and child abuse registry, or an  
780 equivalent registry, in the individual's state of residence based on a conviction  
781 for an offense that is not substantially equivalent to an offense listed in  
782 Subsection (1)(a);
- 783 (e) is found not guilty by reason of insanity in this state or in an external jurisdiction of  
784 an offense listed in Subsection (1)(a) or a substantially equivalent offense; or
- 785 (f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in  
786 Subsection (1)(a); and
- 787 (ii) has been committed to the division for secure care, as defined in Section 80-1-102,  
788 for that offense if:
- 789 (A) the individual remains in the division's custody until 30 days before the  
790 individual's 21st birthday;
- 791 (B) the juvenile court extended the juvenile court's jurisdiction over the individual  
792 under Section 80-6-605 and the individual remains in the division's custody  
793 until 30 days before the individual's 25th birthday; or
- 794 (C) the individual is moved from the division's custody to the custody of the  
795 department before expiration of the division's jurisdiction over the individual.
- 796 (2) Subject to Subsection (3), an individual is:
- 797 (a) a child abuse offender if the individual:
- 798 (i) has committed, attempted, solicited, or conspired to commit an offense described  
799 in Subsection (1)(a)(i) through (ii); or
- 800 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense  
801 described in Subsection (1)(a)(i) through (ii) or a substantially equivalent offense;
- 802 (b) a sex offender if the individual:
- 803 (i) has committed, attempted, solicited, or conspired to commit an offense described  
804 in Subsections (1)(a)(iii) through (xxxii); or
- 805 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense  
806 described in Subsections (1)(a)(iii) through (xxxii) or a substantially equivalent  
807 offense; or
- 808 (c) a kidnap offender if the individual:
- 809 (i) has committed, attempted, solicited, or conspired to commit an offense described  
810 in Subsections (1)(a)(xxxiii) through (xli); or
- 811 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense  
812 described in Subsections (1)(a)(xxxiii) through (xli) or a substantially equivalent



813 offense.

- 814 (3) An individual who has committed a registrable offense described in Subsection  
 815 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense  
 816 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child  
 817 abuse registry, or an equivalent registry, in the individual's state of residence is a child  
 818 abuse offender, sex offender, or kidnap offender based on the individual's status on the  
 819 registry in the individual's state of residence.
- 820 (4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a  
 821 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a,  
 822 Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently  
 823 reduced or dismissed in accordance with the plea in abeyance agreement.

824 Section 4. Section **53-29-203** is amended to read:

825 **53-29-203 . Registration lengths -- 10 years -- Lifetime.**

- 826 (1) Except as provided in Subsection (2), (3), or (4), an individual who commits a  
 827 registrable offense is required to register on the registry for:
- 828 (a) 10 years after the day on which the offender's sentence for the offense has been  
 829 terminated if the registrable offense is for:
- 830 (i) a felony or class A misdemeanor violation of enticing a minor under Section  
 831 76-5-417, if the offender enticed the minor to engage in sexual activity that is one  
 832 of the offenses described in Subsections (1)(a)(ii) through (xxiv);
- 833 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 834 (iii) child torture under Section 76-5-109.4;
- 835 (iv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the  
 836 natural parent of the child victim;
- 837 (v) human trafficking for labor under Section 76-5-308, if the offender was not the  
 838 natural parent of the child victim;
- 839 ~~[(vi) human smuggling under Section 76-5-308.3, if the offender was not the natural~~  
 840 ~~parent of the child victim;]~~
- 841 ~~[(vii)]~~ (vi) human trafficking of a child for labor under ~~[Subsection 76-5-308.5(4)(a)]~~  
 842 Section 76-5-308.5, if the offender was not the natural parent of the child victim;
- 843 ~~[(viii)]~~ (vii) aggravated human trafficking for labor under Section 76-5-310, if the  
 844 offender was not the natural parent of the child victim;
- 845 ~~[(ix) aggravated human smuggling under Section 76-5-310.1;]~~
- 846 ~~[(x)]~~ (viii) human trafficking of a vulnerable adult for labor under Section 76-5-311;

- (ix) human smuggling under Section 76-5-316, if the offender was not the natural parent of the child victim;
- (x) aggravated human smuggling under Section 76-5-317;
- (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);
- (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 commercial 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 commercial sexual exploitation under [ ~~Subsection 76-5-308.5(4)(b)] Section 76-5-308.6, if the offender was not the natural parent of the child victim;~~

- 881 (D) aggravated human trafficking for commercial sexual exploitation under  
882 Section [76-5-310] 76-5-310.2, if the offender was not the natural parent of the  
883 child victim;
- 884 (E) human trafficking of a vulnerable adult for commercial sexual exploitation  
885 under Section [76-5-311] 76-5-312, if the offender was not the natural parent of  
886 the child victim;
- 887 (F) forcible sodomy under Section 76-5-403;
- 888 (G) sexual abuse of a child under Section 76-5-404.1;
- 889 (H) sexual exploitation of a minor under Section 76-5b-201;
- 890 (I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 891 (J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
- 892 (K) aggravated exploitation of prostitution under Section 76-5d-208, on or after  
893 May 10, 2011; or
- 894 (b) the offender's lifetime if the registrable offense is:
- 895 (i) a conviction for an offense described in Subsection (1)(a), if the offender has, at  
896 the time of conviction for the offense:
- 897 (A) previously been convicted of an offense described in Subsection (1)(a), or a  
898 substantially equivalent offense in an external jurisdiction; or
- 899 (B) previously been required to register as an offender for an offense described in  
900 Subsection (1)(a) committed as a juvenile;
- 901 (ii) a following offense, including attempting, soliciting, or conspiring to commit a  
902 felony violation of:
- 903 (A) child kidnapping under Section 76-5-301.1, if the offender was not the natural  
904 parent of the child victim;
- 905 (B) rape under Section 76-5-402;
- 906 (C) rape of a child under Section 76-5-402.1;
- 907 (D) object rape under Section 76-5-402.2;
- 908 (E) object rape of a child under Section 76-5-402.3;
- 909 (F) sodomy on a child under Section 76-5-403.1;
- 910 (G) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 911 (H) aggravated sexual assault under Section 76-5-405;
- 912 (iii) aggravated kidnapping under Section 76-5-302, if the offender was not the  
913 natural parent of the child victim;
- 914 (iv) human trafficking for commercial sexual exploitation under Section 76-5-308.1,

- 915 if the offender was not the natural parent of the child victim;
- 916 (v) human trafficking of a child for commercial sexual exploitation under [Subsection  
917 76-5-308.5(4)(b)] Section 76-5-308.6, if the offender was not the natural parent of  
918 the child victim;
- 919 (vi) aggravated human trafficking for commercial sexual exploitation under Section [  
920 76-5-310] 76-5-310.2, if the offender was not the natural parent of the child victim;
- 921 (vii) human trafficking of a vulnerable adult for commercial sexual exploitation  
922 under Section [~~76-5-311~~] 76-5-312, if the offender was not the natural parent of  
923 the child victim;
- 924 (viii) forcible sodomy under Section 76-5-403;
- 925 (ix) sexual abuse of a child under Section 76-5-404.1;
- 926 (x) sexual exploitation of a minor under Section 76-5b-201;
- 927 (xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 928 (xii) aggravated sexual extortion under Subsection 76-5b-204(2)(b);
- 929 (xiii) aggravated exploitation of prostitution under Section 76-5d-208, on or after  
930 May 10, 2011; or
- 931 (xiv) a felony violation of enticing a minor under Section 76-5-417, if the offender  
932 enticed the minor to engage in sexual activity that is one of the offenses described  
933 in Subsections (1)(b)(ii) through (xiii).
- 934 (2) An individual who qualifies as an offender based on a conviction in an external  
935 jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an  
936 external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is  
937 required to register on the registry for the time period required by the external  
938 jurisdiction.
- 939 (3)(a) If the sentencing court at any time after an offender is convicted of an offense  
940 requiring lifetime registration described in Subsection (1)(b), and after considering  
941 the factors described in Subsection (3)(b), determines that the offender was under 21  
942 years old at the time the offense was committed and the offense did not involve force  
943 or coercion, the requirement that the offender register for the offender's lifetime does  
944 not apply and the offender shall register for 10 years after the day on which the  
945 offender's sentence for the offense has been terminated.
- 946 (b) In determining whether an offense committed by an offender involves force or  
947 coercion under Subsection (3)(a), the sentencing court shall consider:
- 948 (i) the age of the victim;

- 949 (ii) the vulnerability of the victim;
- 950 (iii) the physical, mental, psychological, or emotional harm the victim suffered from
- 951 the offense;
- 952 (iv) whether the offender used fraud or deception to commit the offense;
- 953 (v) if any child sexual abuse material, as that term is defined in Section 76-5b-103,
- 954 was:
- 955 (A) distributed to the victim by the offender; or
- 956 (B) distributed, produced, or possessed by the offender at the time of the offense,
- 957 that involved force or coercion against a victim depicted in the child sexual
- 958 abuse material; and
- 959 (vi) any other factor the sentencing court determines is relevant.
- 960 (4) Except for an individual who is adjudicated for a registrable offense and is an offender
- 961 who meets the requirements under Subsection 53-29-202(1)(f), an individual who is
- 962 under 18 years old and commits a registrable offense after May 3, 2023, is not subject to
- 963 registration requirements under this chapter unless the offender:
- 964 (a) is charged by criminal information in juvenile court under Section 80-6-503;
- 965 (b) is bound over to district court in accordance with Section 80-6-504; and
- 966 (c) is convicted of a registrable offense.
- 967 (5) An offender subject to the 10-year or lifetime registration requirements under
- 968 Subsection (1) may petition the court for an order of removal from the registry in
- 969 accordance with Section 53-29-204, 53-29-205, or 53-29-206.
- 970 Section 5. Section **53-29-205** is amended to read:
- 971 **53-29-205 . Ten-year petition for removal from registry -- Eligibility.**
- 972 (1) An offender who is required to register on the registry for a registrable offense
- 973 described in Subsection (3) subject to a 10-year registration period as described in
- 974 Section 53-29-203 is eligible to petition the court under Section 53-29-207 for an order
- 975 of removal from the registry at a 10-year after entrance into the community period
- 976 described in Subsection (2) if:
- 977 (a) the offender has not been convicted of another offense that is a class A misdemeanor,
- 978 felony, or capital felony within the most recent 10-year period after the date
- 979 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
- 980 bureau;
- 981 (b) the offender successfully completed all treatment ordered by the court or the Board
- 982 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)] (e) human trafficking of a child for labor under [Subsection 76-5-308.5(4)(a)]~~  
Section 76-5-308.5;
- ~~[(g)] (f) aggravated human trafficking for labor under Section 76-5-310;~~
- ~~(g) human trafficking of a vulnerable adult for labor under Section 76-5-311;~~
- ~~(h) human smuggling under Section 76-5-316;~~
- ~~[(h)] (i) aggravated human smuggling under Section [76-5-310.1] 76-5-317;~~
- ~~[(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);
- (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 commercial sexual exploitation under Section 76-5-308.1;
  - (ii) human trafficking of a child for commercial sexual exploitation under [ ~~Subsection 76-5-308.5(4)(b)]~~ Section 76-5-308.6;
  - (iii) aggravated human trafficking for commercial sexual exploitation under Section [ ~~76-5-310~~] 76-5-310.2;
  - (iv) human trafficking of a vulnerable adult for commercial sexual exploitation under Section [ ~~76-5-311~~] 76-5-312;
  - (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;
  - (vii) sexual abuse of a child under Section 76-5-404.1;
  - (viii) sexual exploitation of a minor under Section 76-5b-201;
  - (ix) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
  - (x) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
  - (xi) aggravated exploitation of prostitution under Section 76-5d-208, on or after May 10, 2011; or

(z) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject to a 20-year petition for removal as described in Section 53-29-206, if:

(i) the sentencing court determines that the offender was under 21 years old at the time the offense was committed; and

(ii) the offense did not involve force or coercion as described in Subsection 53-29-203(3).

(4) An individual who is as an offender under Section 53-29-202 based on a conviction in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, may petition for removal from the registry in accordance with the requirements of this section if the individual:

(a) does not have a lifetime registration requirement on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry;

(b) meets the requirements described in Subsections (1)(a) through (c);

(c) has resided in this state for at least 183 days in a year for two consecutive years;

(d) intends to primarily reside in this state; and

(e) has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.

Section 6. Section **53G-6-603** is amended to read:

**53G-6-603 . Requirement of birth certificate for enrollment of students --**

**Procedures.**

(1) As used in this section:

(a) "Child trafficking" means:

(i) [-]human trafficking of a child for labor in violation of Section 76-5-308.5; or

(ii) human trafficking of a child for commercial sexual exploitation in violation of Section 76-5-308.6.

(b) "Enroller" means an individual who enrolls a student in a public school.

(c) "Review team" means a team described in Subsection (4), assigned to determine a student's biological age as described in this section.

(d) "Social service provider" means the same as that term is defined in Section 53E-3-524.

(2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a



particular school, that school shall notify the enroller in writing that within 30 days the enroller shall provide to the school either:

(a) a certified copy of the student's birth certificate; or

(b)(i) other reliable proof of the student's:

(A) identity;

(B) biological age; and

(C) relationship to the student's legally responsible individual; and

(ii) an affidavit explaining the enroller's inability to produce a copy of the student's birth certificate.

(3)(a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately reflects the student's biological age, the enroller shall provide to the school:

(i) an affidavit explaining the reasons for the inaccuracy described in Subsection

(3)(a); and

(ii) except as provided in Subsection (4), supporting documentation that establishes the student's biological age.

(b) The supporting documentation described in Subsection (3)(a)(ii) may include:

(i) a religious, hospital, physician, or physician assistant certificate showing the student's date of birth;

(ii) an entry in a family religious text;

(iii) an adoption record;

(iv) previously verified school records;

(v) previously verified immunization records;

(vi) documentation from a social service provider; or

(vii) other legal documentation, including from a consulate, that reflects the student's biological age.

(4)(a) If the supporting documentation described in Subsection (3)(b) is not available, the school shall assign a review team to work with the enroller to determine the student's biological age for an LEA to use for a student's enrollment and appropriate placement in a public school.

(b) The review team described in Subsection (4)(a):

(i) may include:

(A) an appropriate district administrator;

(B) the student's teacher or teachers;

(C) the school principal;

- (D) a school counselor;
  - (E) a school social worker;
  - (F) a school psychologist;
  - (G) a culturally competent and trauma-informed community representative;
  - (H) a school nurse or other school health specialist;
  - (I) an interpreter, if necessary; or
  - (J) a relevant educational equity administrator; and
- (ii) shall include at least three members, at least one of which has completed the instruction described in Subsection 53G-9-207(3)(a), no more than two years prior to the member's appointment to the review team.
- (c) In addition to any duty to comply with the mandatory reporting requirements described in Section 53E-6-701, a school shall report to local law enforcement and to the division any sign of child trafficking that the review team identifies in carrying out the review team's duties described in Subsection (4)(a).

Section 7. 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) aggravated kidnapping under Section 76-5-302;
  - (g) child kidnapping under Section 76-5-301.1;
  - (h) rape under Section 76-5-402;

- (i) rape of a child under Section 76-5-402.1;
- (j) object rape under Section 76-5-402.2;
- (k) object rape of a child under Section 76-5-402.3;
- (l) forcible sodomy under Section 76-5-403;
- (m) sodomy on a child under Section 76-5-403.1;
- (n) sexual abuse of a child under Section 76-5-404.1;
- (o) aggravated sexual abuse of a child under Section 76-5-404.3;
- (p) aggravated sexual assault under Section 76-5-405;
- (q) any predicate offense to a murder or aggravating offense to an aggravated murder;
- (r) aggravated human trafficking under Section 76-5-310 or 76-5-310.2;
- ~~[(s) aggravated human smuggling under Section 76-5-310.1;]~~
- ~~[(t)]~~ (s) human trafficking of a child for labor under Section 76-5-308.5;
- (t) human trafficking of a child for commercial sexual exploitation under Section 76-5-308.6;
- (u) ~~[-]~~ aggravated human smuggling under Section 76-5-317; or
- ~~[(u)]~~ (v) aggravated exploitation of prostitution involving a child under Section 76-5d-208.

Section 8. Section **76-2-304.5** is amended to read:

**76-2-304.5 . Mistake as to victim's age not a defense.**

- (1) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age:
  - (a) child kidnapping, Section 76-5-301.1;
  - (b) rape of a child, Section 76-5-402.1;
  - (c) object rape of a child, Section 76-5-402.3;
  - (d) sodomy on a child, Section 76-5-403.1;
  - (e) sexual abuse of a child, Section 76-5-404.1;
  - (f) aggravated sexual abuse of a child, Section 76-5-404.3;
  - (g) unlawful kissing of a child, Section 76-5-416.2; or
  - (h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).
- (2) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age:
  - (a) unlawful sexual activity with a minor, Section 76-5-401;
  - (b) sexual abuse of a minor, Section 76-5-401.1; or

(c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

(3) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) human trafficking of a child for labor, Section 76-5-308.5;

(b) human trafficking of a child for commercial sexual exploitation, Section 76-5-308.6;

~~[(b)]~~ (c) aggravated human trafficking, Section 76-5-310;

~~[(e)]~~ (d) aggravated human smuggling, Section ~~[76-5-310.1]~~ 76-5-317;

~~[(d)]~~ (e) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

~~[(e)]~~ (f) patronizing a prostituted individual who is a child, Section 76-5d-204;

~~[(f)]~~ (g) aggravated exploitation of prostitution, Section 76-5d-208; or

~~[(g)]~~ (h) sexual solicitation by an actor offering compensation to a child in exchange for sexual activity, Section 76-5d-211.

Section 9. Section **76-3-203.19** is amended to read:

**76-3-203.19 . Aggravating factor for an offense committed against a child or minor as part of a ritual.**

(1) As used in this section:

(a) "Offense against a child or minor" means an offense that is:

(i) child abuse as described in Section 76-5-109;

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

(iii) aggravated child abuse as described in Section 76-5-109.2;

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

(v) child abuse homicide as described in Section 76-5-208;

(vi) kidnapping as described in Section 76-5-301, if committed against an individual under 18 years old;

(vii) child kidnapping as described in Section 76-5-301.1;

(viii) aggravated kidnapping as described in Section 76-5-302, if committed against an individual under 18 years old;

(ix) human trafficking of a child for labor as described in Section 76-5-308.5;

(x) human trafficking of a child for commercial sexual exploitation as described in Section 76-5-308.6;

~~[(x)]~~ (xi) unlawful sexual activity with a minor as described in Section 76-5-401;

~~[(xi)]~~ (xii) sexual abuse of a minor as described in Section 76-5-401.1;

~~[(xii)]~~ (xiii) rape as described in Section 76-5-402, if committed against an individual

- 1221 under 18 years old;
- 1222 [~~(xiv)~~] (xiv) rape of a child as described in Section 76-5-402.1;
- 1223 [~~(xv)~~] (xv) object rape as described in Section 76-5-404.2, if committed against an
- 1224 individual under 18 years old;
- 1225 [~~(xvi)~~] (xvi) object rape of a child as described in Section 76-5-402.3;
- 1226 [~~(xvii)~~] (xvii) forcible sodomy as described in Section 76-5-403, if committed against
- 1227 an individual under 18 years old;
- 1228 [~~(xviii)~~] (xviii) sodomy on a child as described in Section 76-5-403.1;
- 1229 [~~(xix)~~] (xix) forcible sexual abuse as described in Section 76-5-404, if committed
- 1230 against an individual under 18 years old;
- 1231 [~~(xx)~~] (xx) sexual abuse of a child as described in Section 76-5-404.1;
- 1232 [~~(xxi)~~] (xxi) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 1233 [~~(xxii)~~] (xxii) aggravated sexual assault as described in Section 76-5-405, if committed
- 1234 against an individual under 18 years old;
- 1235 [~~(xxiii)~~] (xxiii) unlawful kissing of a child as described in Section 76-5-416.2; or
- 1236 [~~(xxiv)~~] (xxiv) unlawful kissing of a minor as described in Section 76-5-416.4.
- 1237 (b) "Ritual" means an event or act, or a series of events or acts:
- 1238 (i) marked by specific actions, specific gestures, ceremonial objects, ceremonial
- 1239 clothing, religious texts, or specific words; and
- 1240 (ii) designed to commemorate, celebrate, or solemnize a particular occasion or
- 1241 significance in a religious, cultural, social, institutional, or other context.
- 1242 (2) For a defendant convicted of an offense against a child or minor, it is an aggravating
- 1243 factor if the sentencing court finds that the defendant committed the offense as part of,
- 1244 or to facilitate, a ritual or a training or practice to perform a ritual.
- 1245 (3) When sentencing a defendant convicted of an offense against a child or minor subject to
- 1246 the aggravating factor described in Subsection (2), the sentencing court shall consider
- 1247 the aggravating factor and include the aggravating factor in the judgment of commitment.
- 1248 (4) In determining the length of imprisonment for a defendant imprisoned for a conviction
- 1249 of an offense against a child or minor subject to the aggravating factor described in
- 1250 Subsection (2), the Board of Pardons and Parole shall consider the aggravating factor.
- 1251 Section 10. Section **76-3-203.20** is amended to read:
- 1252 **76-3-203.20 . Aggravating factor if actor traveled to commit a child sexual**
- 1253 **offense.**
- 1254 (1) As used in this section:

- 1255 (a) "Child sexual offense" means one of the following offenses:
- 1256 (i) human trafficking of a child for commercial sexual exploitation as described in
- 1257 Section ~~[76-5-308.5]~~ 76-5-308.6;
- 1258 (ii) unlawful sexual activity with a minor as described in Section 76-5-401;
- 1259 (iii) sexual abuse of a minor as described in Section 76-5-401.1;
- 1260 (iv) unlawful sexual conduct with a 16- or 17-year-old as described in Section
- 1261 76-5-401.2;
- 1262 (v) rape of a child as described in Section 76-5-402.1;
- 1263 (vi) object rape of a child as described in Section 76-5-402.3;
- 1264 (vii) sodomy on a child as described in Section 76-5-403.1;
- 1265 (viii) sexual abuse of a child as described in Section 76-5-404.1;
- 1266 (ix) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 1267 (x) unlawful kissing of a child as described in Section 76-5-416.2; or
- 1268 (xi) unlawful kissing of a minor as described in Section 76-5-416.4.
- 1269 (b) "Principal place of residence" means the single location where an individual's
- 1270 habitation is fixed and to which, whenever the individual is absent, the individual has
- 1271 the intention of returning, as evidenced by:
- 1272 (i) the intent expressed by the individual; and
- 1273 (ii) acts of the individual that are consistent or inconsistent with the intent expressed
- 1274 by the individual.
- 1275 (2) For a defendant convicted of a child sexual offense, it is an aggravating factor if the
- 1276 sentencing court finds that the defendant:
- 1277 (a) traveled more than 45 miles from the defendant's principal place of residence for the
- 1278 purpose of the defendant committing, or attempting to commit, the child sexual
- 1279 offense; or
- 1280 (b) paid for, or otherwise facilitated, the victim to travel more than 45 miles from the
- 1281 victim's principal place of residence, for the purpose of the defendant committing, or
- 1282 attempting to commit, the child sexual offense.
- 1283 (3) When sentencing a defendant convicted of a child sexual offense subject to the
- 1284 aggravating factor described in Subsection (2), the sentencing court shall consider the
- 1285 aggravating factor and include the aggravating factor in the judgment of commitment.
- 1286 (4) In determining the length of imprisonment for a defendant imprisoned for a conviction
- 1287 of an offense against a child or minor subject to the aggravating factor described in
- 1288 Subsection (2), the Board of Pardons and Parole shall consider the aggravating factor.

Section 11. Section **76-5-305** is amended to read:

**Part 3. Kidnapping, Trafficking, and Smuggling**

**76-5-305 . Defenses to certain offenses concerning kidnapping, custodial interference, and unlawful detention.**

(1) It is a defense ~~[under this part that]~~ to an offense listed in Subsection (2) that:

(a) the actor was acting under a reasonable belief that:

(i) the conduct was necessary to protect any individual from imminent bodily injury or death; or

(ii) the detention or restraint was authorized by law; or

(b) the alleged victim is younger than 18 years old or is a dependent adult, as defined in Section 76-5-111, and the actor was acting under a reasonable belief that the custodian, guardian, caretaker, legal guardian, custodial parent, or person acting in loco parentis to the victim would, if present, have consented to the actor's conduct.

~~[(2) Subsection (1)(b) may not be used as a defense to conduct described in Section 76-5-308.5.]~~

(2) The offenses referred to in Subsection (1) are:

(a) kidnapping, in violation of Section 76-5-301;

(b) child kidnapping, in violation of Section 76-5-301.1;

(c) parental kidnapping, in violation of Section 76-5-301.2;

(d) aggravated kidnapping, in violation of Section 76-5-302;

(e) custodial interference, in violation of Section 76-5-303; or

(f) unlawful detention and unlawful detention of a minor, in violation of Section 76-5-304.

Section 12. Section **76-5-308** is amended to read:

**76-5-308 . Human trafficking for labor.**

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

(i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.

(ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.

(iii) "Extortion" means an offense of:

(A) sexual extortion or aggravated sexual extortion under Section 76-5b-204; or

(B) theft by extortion under Section 76-6-406.

(iv) "Fraud" means a knowingly false or misleading material representation of fact

that is:

(A) made to obtain money, property, a benefit, or a service to which a person is not entitled;

(B) intended to cause another person to rely upon the representation; and

(C) relied upon by another person.

(b) Terms defined in [Sections] Section 76-1-101.5~~[and 76-5-307]~~ apply to this section.

(2) An actor commits human trafficking for labor if:

(a) ~~[-]the actor [recruits,-]~~ enlists, harbors, transports, obtains, [patronizes, or solicits] or uses an individual [for labor] for the purpose of procuring or using the individual's labor through the use of force, fraud, or coercion~~[-, which may include] ;~~

(b) the labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance; and

(c) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:

~~[(a)]~~ (i) causing, or threatening to cause, serious harm to~~[-, or physical restraint against, that]~~ the individual or another individual;

(ii) physically restraining, or threatening to physically restrain, the individual or another individual;

~~[(b)]~~ (iii) destroying, concealing, removing, confiscating, or unlawfully possessing [any] a passport, immigration document, or other government-issued identification document;

~~[(c)]~~ (iv) ~~[abusing or threatening abuse of the law or legal process]~~ using, or threatening to use, the legal process in an unlawful manner against the individual or another individual;

(v) kidnapping, or threatening to kidnap, the individual or another individual;

(vi) extortion of the individual or another individual;

(vii) facilitating or controlling the individual's access to a controlled substance; or

(viii) creating or exploiting a circumstance under which:

(A) the individual is unable to terminate the employment relationship; or

(B) the individual is unlawfully forced to remain in a condition of servitude.

~~[(d) using a condition of an individual being a debtor due to a pledge of the individual's personal services or the personal services of an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;]~~



~~[(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause an individual to believe that if the individual did not enter into or continue in a condition of servitude, the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or]~~

~~[(f) creating or exploiting a relationship where the individual is dependent upon the actor.]~~

(3)(a) A violation of Subsection (2) is a second degree felony if the violation is done knowingly.

(b) A violation of Subsection (2) is a third degree felony if the violation is done recklessly.

~~[(4) Human trafficking for labor includes any labor obtained through force, fraud, or coercion as described in Subsection (2).]~~

~~[(5)]~~ (4) ~~[This offense]~~ An offense committed under this section is a separate offense from any other ~~[crime]~~ offense committed in relationship to the commission of ~~[this offense]~~ an offense under this section.

Section 13. Section **76-5-308.1** is amended to read:

**76-5-308.1 . Human trafficking for commercial sexual exploitation.**

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

(i) "Commercial sexual act" means participating in an act of sexual activity with another individual for which anything of value is offered, given to, or received by any individual.

(ii)(A) "Commercial sexually explicit performance" means a sexually explicit performance or activity for which anything of value is offered, given to, or received by any individual.

(B) "Commercial sexually explicit performance" does not include a commercial sexual act.

(iii) "Extortion" means the same as that term is defined in Section 76-5-308.

(iv) "Fraud" means the same as that term is defined in Section 76-5-308.

(v) "Sexual activity" means:

(A) sexual intercourse or any other sexual act involving the genitals of one individual and the mouth or anus of another individual; or

(B) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

(b) Terms defined in [Sections] Section 76-1-101.5 [and 76-5-307] apply to this section.

- (2) An actor commits human trafficking for commercial sexual exploitation if:
- (a) ~~[-]the actor [recruits,-]~~ enlists, harbors, transports, obtains, patronizes, or solicits an individual [for sexual exploitation] for the purpose of procuring the individual's labor in the form of a commercial sexually explicit performance or commercial sexual act through the use of force, fraud, or coercion[,-which may include:] ; and
  - (b) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:
    - ~~[(a)]~~ (i) causing, or threatening to cause, serious harm to[,-or physical restraint against, that] the individual or another individual;
    - (ii) physically restraining, or threatening to physically restrain, the individual or another individual;
    - ~~[(b)]~~ (iii) destroying, concealing, removing, confiscating, or unlawfully possessing [ any] a passport, immigration document, or other government-issued identification document;
    - ~~[(c)]~~ (iv) [abusing or threatening abuse of the law or legal process] using, or threatening to use, the legal process in an unlawful manner against the individual or another individual;
    - (v) kidnapping, or threatening to kidnap, the individual or another individual;
    - (vi) extortion of the individual or another individual;
    - (vii) facilitating or controlling the individual's access to a controlled substance; or
    - (viii) creating or exploiting a circumstance under which:
      - (A) the individual is unable to terminate the employment relationship; or
      - (B) the individual is unlawfully forced to remain in a condition of servitude.
    - ~~[(d)]~~ using a condition of an individual being a debtor due to a pledge of the individual's personal services or the personal services of an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;]
    - ~~[(e)]~~ using a condition of servitude by means of any scheme, plan, or pattern intended to cause an individual to believe that if the individual did not enter into or continue in a condition of servitude, the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or]
    - ~~[(f)]~~ creating or exploiting a relationship where the individual is dependent upon the actor.]
- (3)(a) A violation of Subsection (2) is a first degree felony if the violation:
- (i) involves a commercial sexual act; and

- 1425           (ii) is done knowingly.
- 1426       (b) A violation of Subsection (2) is a second degree felony if the violation:
- 1427           (i)(A) involves a commercial sexually explicit performance; and
- 1428               (B) is done knowingly; or
- 1429           (ii)(A) involves a commercial sexual act; and
- 1430               (B) is done recklessly.
- 1431       (c) A violation of Subsection (2) is a third degree felony if the violation:
- 1432           (i) involves a commercial sexually explicit performance; and
- 1433           (ii) is done recklessly.
- 1434       ~~[(4) Human trafficking for sexual exploitation includes all forms of commercial sexual~~
- 1435       ~~activity, which may include the following conduct when the person acts under force,~~
- 1436       ~~fraud, or coercion as described in Subsection (1):]~~
- 1437       ~~[(a) sexually explicit performance;]~~
- 1438       ~~[(b) prostitution;]~~
- 1439       ~~[(c) participation in the production of pornography;]~~
- 1440       ~~[(d) performance in strip clubs; and]~~
- 1441       ~~[(e) exotic dancing or display.]~~
- 1442       ~~[(5)]~~ (4) [This offense] An offense committed under this section is a separate offense from
- 1443       ~~any other [erime] offense committed in relationship to the commission of [this offense] an~~
- 1444       ~~offense under this section.~~
- 1445       Section 14. Section **76-5-308.5** is amended to read:
- 1446       **76-5-308.5 . Human trafficking of a child for labor.**
- 1447       (1)(a) As used in this section~~[-,"commercial sexual activity with a child" means any~~
- 1448       ~~sexual act with a child, for which anything of value is given to or received by any~~
- 1449       ~~person.]:~~
- 1450           (i) "Child" means an individual who is younger than 18 years old.
- 1451           (ii) "Commercial sexual act" means the same as that term is defined in Section
- 1452               76-5-308.1.
- 1453           (iii) "Commercial sexually explicit performance" means the same as that term is
- 1454               defined in Section 76-5-308.1.
- 1455           (iv) "Extortion" means the same as that term is defined in Section 76-5-308.
- 1456           (v) "Fraud" means the same as that term is defined in Section 76-5-308.
- 1457       (b) Terms defined in ~~[Sections]~~ Section 76-1-101.5[and 76-5-307] apply to this section.
- 1458       (2) An actor commits human trafficking of a child for labor if~~[-the actor recruits,]~~ :

- 1459       (a) ~~[-] the actor enlists, harbors, transports, obtains, [patronizes, or solicits a child for~~  
1460           ~~sexual exploitation or forced labor.] or uses a child for the purpose of procuring or~~  
1461           ~~using the child's labor through the use of force, fraud, or coercion of either the child~~  
1462           ~~or an individual who has the ability to control the actions of the child;~~  
1463       (b) ~~the labor described in Subsection (2)(a) is not a commercial sexual act or a~~  
1464           ~~commercial sexually explicit performance; and~~  
1465       (c) ~~the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:~~  
1466           ~~(i) causing, or threatening to cause, serious harm to the child or another individual;~~  
1467           ~~(ii) physically restraining, or threatening to physically restrain, the child or another~~  
1468           ~~individual;~~  
1469           ~~(iii) destroying, concealing, removing, confiscating, or unlawfully possessing a~~  
1470           ~~passport, immigration document, or other government-issued identification~~  
1471           ~~document;~~  
1472           ~~(iv) using, or threatening to use, the legal process in an unlawful manner against the~~  
1473           ~~child or another individual;~~  
1474           ~~(v) kidnapping, or threatening to kidnap, the child or another individual;~~  
1475           ~~(vi) extortion of the child or another individual;~~  
1476           ~~(vii) facilitating or controlling the child's access to a controlled substance; or~~  
1477           ~~(viii) creating or exploiting a circumstance under which:~~  
1478               (A) ~~the child, or an individual who has the ability to control the actions of the~~  
1479               ~~child, is unable to terminate the employment relationship; or~~  
1480               (B) ~~the child is unlawfully forced to remain in a condition of servitude.~~  
1481       (3)(a) ~~A violation of Subsection (2) that is done knowingly is a first degree felony~~  
1482           ~~punishable by a term of imprisonment of not less than:~~  
1483               ~~[(a)] (i) 10 years and which may be for life if the child described in Subsection (2) is~~  
1484               ~~14 years old or older but younger than 18 years old; or~~  
1485               ~~[(b)] (ii) 15 years and which may be for life if the child described in Subsection (2) is~~  
1486               ~~under 14 years old.~~  
1487       (b) ~~A violation of Subsection (2) that is done recklessly is a second degree felony.~~  
1488       [(4)(a) ~~Human trafficking of a child for labor includes any labor obtained through force,~~  
1489           ~~fraud, or coercion as described in Section 76-5-308.]~~  
1490       ~~[(b) Human trafficking of a child for sexual exploitation includes all forms of~~  
1491           ~~commercial sexual activity with a child, including sexually explicit performance,~~  
1492           ~~prostitution, participation in the production of pornography, performance in a strip~~

club, and exotic dancing or display as described in Section 76-5-308.1.]

[(5)] (4) [This offense] An offense committed under this section is a separate offense from any other [crime] offense committed in relationship to the commission of [this offense] an offense under this section.

(5) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the child described in Subsection (2) was 18 years old or older at the time of the violation of Subsection (2) or was unaware of the child's true age.

Section 15. Section **76-5-308.6** is enacted to read:

**76-5-308.6 . Human trafficking of a child for commercial sexual exploitation.**

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

(i) "Child" means an individual who is younger than 18 years old.

(ii) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.

(iii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.

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

(2) An actor commits human trafficking of a child for commercial sexual exploitation if the actor enlists, harbors, transports, obtains, patronizes, or solicits a child for the purpose of procuring the child's labor in the form of a commercial sexual act or a commercial sexually explicit performance.

(3)(a) A violation of Subsection (2) that is done knowingly is a first degree felony punishable by a term of imprisonment of not less than:

(i) 10 years and which may be for life if the child described in Subsection (2) is 14 years old or older but younger than 18 years old; or

(ii) 15 years and which may be for life if the child described in Subsection (2) is under 14 years old.

(b) A violation of Subsection (2) that is done recklessly is a second degree felony.

(4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

(5) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the child described in Subsection (2) was 18 years old or older at the time of the violation of Subsection (2) or was unaware of the child's true age.

Section 16. Section **76-5-309** is amended to read:

**76-5-309 . Criminal liability based on benefiting from human trafficking or human smuggling.**

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor is a party to the offense if the actor benefits, receives, or exchanges anything of value from knowing participation in:
- (a) human trafficking for labor in violation of Section 76-5-308;
  - ~~[(b) human smuggling in violation of Section 76-5-308.3;]~~
  - ~~[(c) human trafficking of a child in violation of Section 76-5-308.5; and]~~
  - ~~[(d)] (b) human trafficking for commercial sexual exploitation in violation of Section 76-5-308.1[-] ;~~
  - ~~(c) human trafficking of a child for labor in violation of Section 76-5-308.5;~~
  - ~~(d) human trafficking of a child for commercial sexual exploitation in violation of Section 76-5-308.6;~~
  - ~~(e) human trafficking of a vulnerable adult for labor in violation of Section 76-5-311;~~
  - ~~(f) human trafficking of a vulnerable adult for commercial sexual exploitation in violation of Section 76-5-312; or~~
  - ~~(g) human smuggling in violation of Section 76-5-316.~~
- ~~[(3)(a) A violation of Subsection (2)(a) is a second degree felony.]~~
- ~~[(b) A violation of Subsection (2)(b) is a third degree felony.]~~
- ~~[(c) A violation of Subsection (2)(c) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.]~~
- ~~[(d) A violation of Subsection (2)(d) is a first degree felony.]~~
- ~~[(4) An actor commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each individual who is smuggled or trafficked under Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310, or 76-5-310.1.]~~

Section 17. Section **76-5-310** is amended to read:

**76-5-310 . Aggravated human trafficking for labor.**

- (1) Terms defined in [Sections] Section 76-1-101.5[~~and 76-5-307~~] apply to this section.
- (2) An actor commits aggravated human trafficking for labor [~~or sexual exploitation~~]if, in the course of committing an offense of human trafficking for labor under Section 76-5-308[~~or 76-5-308.1~~], the offense:
- (a) results in the death of [~~a trafficked individual~~] an individual who is a victim of the offense described in Section 76-5-308;

(b) results in serious bodily injury of [~~a trafficked individual~~] an individual who is a victim of the offense described in Section 76-5-308;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

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

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section 76-5-404.3; or

(viii) aggravated sexual assault under Section 76-5-405;

(d) involves the trafficking of 10 or more individuals; or

(e) involves an individual trafficked for longer than 30 consecutive days.

(3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.

(4) [~~Aggravated human trafficking~~] An offense under this section is a separate offense from any other [crime] offense committed in relationship to the commission of [the offense] an offense under this section.

Section 18. Section **76-5-310.2** is enacted to read:

**76-5-310.2 . Aggravated human trafficking for commercial sexual exploitation.**

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

(2) An actor commits aggravated human trafficking for commercial sexual exploitation if, in the course of committing an offense of human trafficking for commercial sexual exploitation under Section 76-5-308.1, the offense:

(a) results in the death of an individual who is a victim of the offense described in Section 76-5-308.1;

(b) results in serious bodily injury of an individual who is a victim of the offense described in Section 76-5-308.1;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

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

- 1595 (vi) sodomy on a child under Section 76-5-403.1;  
 1596 (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or  
 1597 (viii) aggravated sexual assault under Section 76-5-405;  
 1598 (d) involves the trafficking of 10 or more individuals; or  
 1599 (e) involves an individual trafficked for longer than 30 consecutive days.  
 1600 (3) A violation of Subsection (2) is a first degree felony punishable by a term of  
 1601 imprisonment of not less than 10 years and which may be for life.  
 1602 (4) An offense committed under this section is a separate offense from any other offense  
 1603 committed in relationship to the commission of an offense under this section.  
 1604 Section 19. Section **76-5-311** is amended to read:  
 1605 **76-5-311 . Human trafficking of a vulnerable adult for labor.**  
 1606 (1)(a) As used in this section:  
 1607 (i) "Commercial sexual [activity with a vulnerable adult] act" means [any sexual act  
 1608 with a vulnerable adult for which anything of value is given to or received by any  
 1609 individual] the same as that term is defined in Section 76-5-308.1.  
 1610 (ii) "Commercial sexually explicit performance" means the same as that term is  
 1611 defined in Section 76-5-308.1.  
 1612 (iii) "Extortion" means the same as that term is defined in Section 76-5-308.  
 1613 (iv) "Fraud" means the same as that term is defined in Section 76-5-308.  
 1614 ~~[(ii)]~~ (v) "Vulnerable adult" means the same as that term is defined in [Subsection  
 1615 76-5-111(1)] Section 76-5-111.  
 1616 (b) Terms defined in Section 76-1-101.5 apply to this section.  
 1617 (2) An actor commits human trafficking of a vulnerable adult for labor if~~[the actor]~~:  
 1618 (a) ~~[recruits,] the actor enlists, harbors, transports, [or] obtains, or uses~~ a vulnerable adult  
 1619 ~~for [sexual exploitation or forced labor; or]~~ the purpose of procuring or using the  
 1620 vulnerable adult's labor through the use of force, fraud, or coercion of either the  
 1621 vulnerable adult or an individual who has the ability to control the actions of the  
 1622 vulnerable adult;  
 1623 (b) the labor described in Subsection (2)(a) is not a commercial sexual act or a  
 1624 commercial sexually explicit performance;  
 1625 (c) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:  
 1626 (i) causing, or threatening to cause, serious harm to the vulnerable adult or another  
 1627 individual;  
 1628 (ii) physically restraining, or threatening to physically restrain, the vulnerable adult or



another individual;

(iii) destroying, concealing, removing, confiscating, or unlawfully possessing a passport, immigration document, or other government-issued identification document;

(iv) using, or threatening to use, the legal process in an unlawful manner against the vulnerable adult or another individual;

(v) kidnapping, or threatening to kidnap, the vulnerable adult or another individual;

(vi) extortion of the vulnerable adult or another individual;

(vii) facilitating or controlling the vulnerable adult's access to a controlled substance;  
or

(viii) creating or exploiting a circumstance under which:

(A) the vulnerable adult, or an individual who has the ability to control the actions of the vulnerable adult, is unable to terminate the employment relationship; or

(B) the vulnerable adult is unlawfully forced to remain in a condition of servitude;  
and

(d) the actor knows, is reckless, or is criminally negligent as to whether, the vulnerable adult described in Subsection (2)(a) is a vulnerable adult.

~~[(b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.]~~

(3)(a) A violation of Subsection (2) in which the violation of Subsections (2)(a) and (c) is done knowingly is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.

(b) A violation of Subsection (2) in which the violation of Subsections (2)(a) and (c) is done recklessly is a second degree felony.

(4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

~~[(4)(a) Human trafficking of a vulnerable adult for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308.]~~

~~[(b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:]~~

~~[(i) sexually explicit performances;]~~

~~[(ii) prostitution;]~~

~~[(iii) participation in the production of pornography;]~~

~~[(iv) performance in a strip club; or]~~

1663           ~~[(v) exotic dancing or display.]~~

1664           Section 20. Section **76-5-312** is enacted to read:

1665           **76-5-312 . Human trafficking of a vulnerable adult for commercial sexual**  
1666 **exploitation.**

1667           (1)(a) As used in this section:

1668               (i) "Commercial sexual act" means the same as that term is defined in Section  
1669               76-5-308.1.

1670               (ii) "Commercial sexually explicit performance" means the same as that term is  
1671               defined in Section 76-5-308.1.

1672               (iii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

1673           (b) Terms defined in Section 76-1-101.5 apply to this section.

1674           (2) An actor commits human trafficking of a vulnerable adult for commercial sexual  
1675 exploitation if the actor enlists, harbors, transports, obtains, patronizes, or solicits a  
1676 vulnerable adult for the purpose of procuring the vulnerable adult's labor in the form of a  
1677 commercial sexual act or a commercial sexually explicit performance.

1678           (3)(a) A violation of Subsection (2) that is done knowingly is a first degree felony  
1679 punishable by a term of imprisonment of not less than 10 years and which may be for  
1680 life.

1681           (b) A violation of Subsection (2) that is done recklessly is a second degree felony.

1682           (4) An offense committed under this section is a separate offense from any other offense  
1683 committed in relationship to the commission of an offense under this section.

1684           Section 21. Section **76-5-313** is enacted to read:

1685           **76-5-313 . Patronizing a victim of human labor trafficking.**

1686           (1)(a) As used in this section:

1687               (i) "Commercial sexual act" means the same as that term is defined in Section  
1688               76-5-308.1.

1689               (ii) "Commercial sexually explicit performance" means the same as that term is  
1690               defined in Section 76-5-308.1.

1691               (iii) "Fraud" means the same as that term is defined in Section 76-5-308.

1692           (b) Terms defined in Section 76-1-101.5 apply to this section.

1693           (2) An actor commits patronizing a victim of labor trafficking if:

1694               (a) the actor knowingly requests or accepts labor or services from an individual;

1695               (b) the labor or services described in Subsection (2)(a) is not a commercial sexual act or  
1696 a commercial sexually explicit performance; and

(c) the actor:

(i) knows the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual; or

(ii) is reckless as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual.

(3)(a) A violation of Subsection (2)(c)(i) is a third degree felony.

(b) A violation of Subsection (2)(c)(ii) is a class A misdemeanor.

Section 22. Section **76-5-314** is enacted to read:

**76-5-314 . Patronizing a child victim of human labor trafficking.**

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

(i) "Child" means an individual who is younger than 18 years old.

(ii) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.

(iii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.

(iv) "Fraud" means the same as that term is defined in Section 76-5-308.

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

(2) An actor commits patronizing a child victim of labor exploitation if:

(a) the actor knowingly requests or accepts services or labor from an individual;

(b) the services or labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance;

(c) the actor knows, is reckless, or is criminally negligent as to whether, the individual described in Subsection (2)(a) is a child;

(d) the individual described in Subsection (2)(a) is a child; and

(e) the actor:

(i) knows the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual;

(ii) is reckless as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual;  
or

(iii) is criminally negligent as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual.

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

(b) A violation of Subsection (2)(e)(ii) is a third degree felony.

(c) A violation of Subsection (2)(e)(iii) is a class A misdemeanor.

Section 23. Section **76-5-315** is enacted to read:

**76-5-315 . Patronizing a vulnerable adult victim of human labor trafficking.**

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

(i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.

(ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.

(iii) "Fraud" means the same as that term is defined in Section 76-5-308.

(iv) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

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

(2) An actor commits patronizing a vulnerable adult victim of human labor trafficking if:

(a) the actor knowingly requests or accepts services or labor from an individual;

(b) the services or labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance;

(c) the actor knows, is reckless, or is criminally negligent as to whether, the individual described in Subsection (2)(a) is a vulnerable adult;

(d) the individual described in Subsection (2)(a) is a vulnerable adult; and

(e) the actor:

(i) knows the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual;

(ii) is reckless as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual;  
or

(iii) is criminally negligent as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual.

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

(b) A violation of Subsection (2)(e)(ii) is third degree felony.

(c) A violation of Subsection (2)(e)(iii) is a class A misdemeanor.

Section 24. Section **76-5-316**, which is renumbered from Section 76-5-308.3 is renumbered and amended to read:

**[76-5-308.3] 76-5-316 . Human smuggling.**

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

(i) "Commercial purpose" includes direct or indirect participation in, or facilitation of, the transportation of one or more individuals for the purpose of:

(A) charging or obtaining a fee, or attempting to charge or obtain a fee, for the transportation; or

(B) obtaining, exchanging, or receiving, or attempting to obtain, exchange, or receive, any thing or item of value.

(ii) "Facilitation of the transportation" includes providing:

(A) travel arrangement services;

(B) payment for the costs of travel; or

(C) property that would advance an act of transportation, including:

(I) a vehicle or other means of transportation;

(II) a weapon;

(III) false identification; or

(IV) making lodging available, including by rent, lease, or sale.

(b) Terms defined in [Sections] Section 76-1-101.5 [and 76-5-307] apply to this section.

(2) An actor commits human smuggling if the actor transports or procures the transportation for one or more individuals for a commercial purpose, knowing or having reason to know that the individual or individuals transported or to be transported are not:

(a) citizens of the United States;

(b) permanent resident aliens; or

(c) otherwise lawfully in this state or entitled to be in this state.

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

(4) ~~[This offense is a separate offense from any other crime committed in relationship to the commission of this offense]~~ An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Section 25. Section **76-5-317**, which is renumbered from Section 76-5-310.1 is renumbered and amended to read:

**[76-5-310.1] 76-5-317 . Aggravated human smuggling.**

(1)(a) As used in this section, "family member" means an individual's parent, grandparent, sibling, or other individual related to the individual by consanguinity or affinity to the second degree.

(b) Terms defined in [Sections] Section 76-1-101.5[and 76-5-307] apply to this section.

- 1799 (2) An actor commits aggravated human smuggling if, in the course of committing [an  
1800 offense under Section 76-5-308.3] human smuggling in violation of Section 76-5-316,  
1801 the offense:
- 1802 (a) results in the death of [~~a smuggled individual~~] an individual who is a victim of the  
1803 offense described in Section 76-5-316;
- 1804 (b) results in serious bodily injury [~~to a smuggled individual~~] of an individual who is a  
1805 victim of the offense described in Section 76-5-316;
- 1806 (c) involves the smuggling of a child and the child is not accompanied by a family  
1807 member who is 18 years old or older;
- 1808 (d) involves:
- 1809 (i) rape under Section 76-5-402;
- 1810 (ii) rape of a child under Section 76-5-402.1;
- 1811 (iii) object rape under Section 76-5-402.2;
- 1812 (iv) object rape of a child under Section 76-5-402.3;
- 1813 (v) forcible sodomy under Section 76-5-403;
- 1814 (vi) sodomy on a child under Section 76-5-403.1;
- 1815 (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
- 1816 (viii) aggravated sexual assault under Section 76-5-405; or
- 1817 (e) involves the smuggling of 10 or more individuals.
- 1818 (3) A violation of Subsection (2) is a first degree felony.
- 1819 (4) [~~Aggravated human smuggling is a separate offense from any other crime committed in~~  
1820 ~~relationship to the offense~~] An offense committed under this section is a separate offense  
1821 from any other offense committed in relationship to the commission of an offense under  
1822 this section.
- 1823 Section 26. Section **76-5-417** is amended to read:
- 1824 **76-5-417 . Enticing a minor to engage in sexual activity.**
- 1825 (1)(a) As used in this section:
- 1826 (i) "Minor" means an individual who is under 18 years old.
- 1827 (ii) "Electronic communication" means the same as that term is defined in Section  
1828 76-12-201.
- 1829 (iii) "Electronic communication device" means the same as that term is defined in  
1830 Section 76-12-201.
- 1831 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1832 (2) An actor commits enticing a minor to engage in sexual activity if the actor knowingly:

- 1833 (a) uses an electronic communication or an electronic communication device to:
- 1834 (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or
- 1835 entice a minor, or another person who the actor believes to be a minor, to engage
- 1836 in sexual activity that is a violation of state criminal law;
- 1837 (ii) communicate with any individual with the intent to solicit, seduce, lure, or entice
- 1838 a minor, or attempt to solicit, seduce, lure, or entice a minor, to engage in sexual
- 1839 activity that is a violation of state criminal law; or
- 1840 (iii)(A) initiate contact with a minor or a person the actor believes to be a minor;
- 1841 and
- 1842 (B) subsequent to the action described in Subsection (2)(a)(iii)(A), by any
- 1843 electronic or written means, solicits, seduces, lures, or entices the minor, or
- 1844 attempts to solicit, seduce, lure, or entice the minor, or a person the actor
- 1845 believes to be the minor, to engage in sexual activity that is a violation of state
- 1846 criminal law; or
- 1847 (b) develops a relationship of trust with a minor or the minor's parent or guardian with
- 1848 the intent to solicit, seduce, lure, or entice the minor, or attempt to solicit, seduce,
- 1849 lure, or entice the minor, to engage in sexual activity that is a violation of state
- 1850 criminal law.
- 1851 (3) A violation of Subsection (2) is punishable as follows:
- 1852 (a) enticement to engage in sexual activity that would be a first degree felony for the
- 1853 actor is a:
- 1854 (i) second degree felony upon the first conviction for violation of this Subsection
- 1855 (3)(a); and
- 1856 (ii) first degree felony punishable by imprisonment for an indeterminate term of not
- 1857 fewer than three years and which may be for life, upon a second or any subsequent
- 1858 conviction for a violation of this Subsection (3)(a);
- 1859 (b) enticement to engage in sexual activity that would be a second degree felony for the
- 1860 actor is a third degree felony;
- 1861 (c) enticement to engage in sexual activity that would be a third degree felony for the
- 1862 actor is a class A misdemeanor;
- 1863 (d) enticement to engage in sexual activity that would be a class A misdemeanor for the
- 1864 actor is a class B misdemeanor; and
- 1865 (e) enticement to engage in sexual activity that would be a class B misdemeanor for the
- 1866 actor is a class C misdemeanor.

- (4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.
- (5)(a) When an actor who commits a felony violation of this section has previously been convicted of an offense described in Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:
- (i) grant probation;
  - (ii) suspend the execution or imposition of the sentence;
  - (iii) enter a judgment for a lower category of offense; or
  - (iv) order hospitalization.
- (b) The ~~[sections]~~ offenses referred to in Subsection (5)(a) are:
- (i) child kidnapping as described in Section 76-5-301.1;
  - (ii) human trafficking of a child for labor as described in Section 76-5-308.5;
  - (iii) human trafficking of a child for commercial sexual exploitation as described in Section 76-5-308.6;
  - ~~[(iii)]~~ (iv) rape as described in Section 76-5-402;
  - ~~[(iv)]~~ (v) rape of a child as described in Section 76-5-402.1;
  - ~~[(v)]~~ (vi) object rape as described in Section 76-5-402.2;
  - ~~[(vi)]~~ (vii) object rape of a child as described in Section 76-5-402.3;
  - ~~[(vii)]~~ (viii) forcible sodomy as described in Section 76-5-403;
  - ~~[(viii)]~~ (ix) sodomy on a child as described in Section 76-5-403.1;
  - ~~[(ix)]~~ (x) forcible sexual abuse as described in Section 76-5-404;
  - ~~[(x)]~~ (xi) sexual abuse of a child as described in Section 76-5-404.1;
  - ~~[(xi)]~~ (xii) aggravated sexual abuse of a child as described in Section 76-5-404.3;
  - ~~[(xii)]~~ (xiii) aggravated sexual assault as described in Section 76-5-405;
  - ~~[(xiii)]~~ (xiv) enticing a minor to engage in sexual activity as described in Section 76-5-417;
  - ~~[(xiv)]~~ (xv) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through ~~[(xiii)]~~ (xiv); or
  - ~~[(xv)]~~ (xvi) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through ~~[(xiv)]~~ (xv).
- Section 27. Section **76-5d-106** is amended to read:
- 76-5d-106 . Safe harbor for children as victims in commercial sex or sexual solicitation.**



- (1) As used in this section:
- (a) "Child engaged in commercial sex or sexual solicitation" means a child who:
    - (i) engages, offers, or agrees to engage in any sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee;
    - (ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for receiving a fee or the functional equivalent of a fee;
    - (iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity; or
    - (iv) engages in sexual solicitation.
  - (b) "Division" means the Division of Child and Family Services created in Section 80-2-201.
  - (c) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.
- (2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:
- (a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308, 76-5-308.1, ~~[and]~~ 76-5-308.5, and 76-5-308.6;
  - (b) refer the child to the division;
  - (c) bring the child to a juvenile receiving center, if available; and
  - (d) contact the child's parent or guardian, if practicable.
- (3) When law enforcement refers a child to the division under Subsection (2)(b), the division shall provide services to the child under Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.
- Section 28. Section **76-5d-208** is amended to read:
- 76-5d-208 . Aggravated exploitation of prostitution.**
- (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
  - (2) An actor commits aggravated exploitation of prostitution if:
    - (a) in committing an act of exploitation of prostitution as described in Section 76-5d-207, the actor uses any force, threat, or fear against any individual;
    - (b) the individual whom the actor procured, transported, or persuaded or with whom the actor shares the proceeds of prostitution, is a child or is the spouse of the actor; or
    - (c) in the course of committing an act of exploitation of prostitution as described in Section 76-5d-207, the actor commits human trafficking or human smuggling in

violation of Section 76-5-308, 76-5-308.1, [~~76-5-308.3, or~~] 76-5-308.5, 76-5-308.6, 76-5-310, 76-5-310.2, 76-5-311, 76-5-312, 76-5-316, or 76-5-317.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.

(b) A violation of Subsection (2) is a first degree felony if the violation involves a child.

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 29. Section **76-5d-211** is amended to read:

**76-5d-211 . Sexual solicitation by an actor offering compensation to a child in exchange for sexual activity.**

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) Under circumstances not amounting to an offense described in Subsection (4), an actor commits the offense of sexual solicitation by an actor offering compensation to a child in exchange for sexual activity if the actor:

(a) is 12 years old or older; and

(b)(i) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a child to hire the child to commit any sexual activity; or

(ii) with intent to pay a child to be hired to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the child to engage in any of the following acts:

(A) exposure or touching of the child's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(B) masturbation; or

(C) any act of lewdness.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.

(b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:

(i) a third degree felony if:

(A) the actor is 17 years old and the child is 13 years old or younger; or

(B) the actor is 16 years old and the child is 12 years old or younger;

(ii) a class A misdemeanor if:

(A) the actor is 17 years old and the child is 14 years old;

(B) the actor is 16 years old and the child is 13 years old;

- 1969 (C) the actor is 15 years old and the child is 12 years old or younger; or  
 1970 (D) the actor is 14 years old and the child is 11 years old or younger;  
 1971 (iii) a class B misdemeanor if:  
 1972 (A) the actor is 17 years old and the child is 15 years old;  
 1973 (B) the actor is 16 years old and the child is 14 years old;  
 1974 (C) the actor is 15 years old and the child is 13 years old;  
 1975 (D) the actor is 14 years old and the child is 12 years old;  
 1976 (E) the actor is 13 years old and the child is 11 years old or younger; or  
 1977 (F) the actor is 12 years old and the child is 10 years old or younger; or  
 1978 (iv) a class C misdemeanor if:  
 1979 (A) the actor is 17 years old and the child is 16 or 17 years old;  
 1980 (B) the actor is 16 years old and the child is 15 years old or older;  
 1981 (C) the actor is 15 years old and the child is 14 years old or older;  
 1982 (D) the actor is 14 years old and the child is 13 years old or older;  
 1983 (E) the actor is 13 years old and the child is 12 years old or older; or  
 1984 (F) the actor is 12 years old and the child is 11 years old or older.
- 1985 (4) The offenses referred to in Subsection (2) are:  
 1986 (a) human trafficking for labor as described in Section 76-5-308;  
 1987 (b) human trafficking for commercial sexual exploitation as described in Section  
 1988 76-5-308.1;  
 1989 [~~(c) human smuggling as described in Section 76-5-308.3;~~]  
 1990 [~~(d) human trafficking of a child as described in Section 76-5-308.5;~~]  
 1991 (c) human trafficking of a child for commercial sexual exploitation under Section  
 1992 76-5-308.6;  
 1993 [~~(e) aggravated human trafficking as described in Section 76-5-310; and~~]  
 1994 (d) aggravated human trafficking for commercial sexual exploitation as described in  
 1995 Section 76-5-310.2;  
 1996 (e) human smuggling as described in Section 76-5-316; and  
 1997 (f) aggravated human smuggling as described in Section ~~[76-5-310.1]~~ 76-5-317.
- 1998 (5) The actor's intent to hire a child to engage in sexual activity for a fee may be inferred  
 1999 from an actor engaging in, offering or agreeing to engage in, or requesting or directing  
 2000 another to engage in any of the acts described in Subsection (2)(b) under the totality of  
 2001 the existing circumstances.
- 2002 (6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor

engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.

(7)(a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

Section 30. Section **76-14-202** is amended to read:

**76-14-202 . Detention or arrest -- Determination of immigration status.**

(1)(a) Except as provided in Subsection (1)(b), (c), or (d), a law enforcement officer who, acting in the enforcement of a state law or local ordinance, conducts a lawful stop, detention, or arrest of an individual as specified in Subsection (1)(a)(i) or (ii), and the individual is unable to provide to the law enforcement officer a document listed in Subsection 76-14-203(1) and the law enforcement officer is otherwise unable to verify the identity of the individual, the law enforcement officer:

(i) shall request verification of the citizenship or the immigration status of the individual under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the individual is arrested for an alleged offense that is a class A misdemeanor or a felony; and

(ii) may attempt to verify the immigration status of the individual, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the individual is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law enforcement agency booking the individual shall attempt to verify the immigration status of the individual.

(b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.

(c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for an elementary or secondary school.

(d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement

agency is not available.

- (2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the law enforcement officer makes observations that give the law enforcement officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section 76-5-308, 76-5-308.1, ~~76-5-308.3,~~ 76-5-308.5, 76-5-308.6, 76-5-310, ~~76-5-310.1~~ 76-5-310.2, 76-5-311, 76-5-312, 76-5-316, 76-5-317, or 76-14-209, which concern smuggling, human trafficking, or transporting illegal aliens, the law enforcement officer shall, to the extent possible within a reasonable period of time:
- (a) detain the occupants of the vehicle to investigate the suspected violations; and
- (b) inquire regarding the immigration status of the occupants of the vehicle.
- (3) When an individual under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked individual is submitted as promptly as is reasonably possible.
- (4) The law enforcement agency that has custody of an individual verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.
- (5) A law enforcement officer may not consider race, color, or national origin in implementing this section, except to the extent permitted by the constitutions of the United States and this state.

Section 31. Section **76-17-401** is amended to read:

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

As used in this part:

- (1)(a) "Enterprise" means an individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and a union or group of individuals associated in fact although not a legal entity.
- (b) "Enterprise" includes illicit as well as licit entities.
- (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 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;
  - (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

2105 (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah  
 2106 Procurement Code;  
 2107 (l) assault under Section 76-5-102;  
 2108 (m) aggravated assault under Section 76-5-103;  
 2109 (n) a threat of terrorism under Section 76-5-107.3;  
 2110 (o) a criminal homicide offense under Section 76-5-201;  
 2111 (p) kidnapping under Section 76-5-301;  
 2112 (q) aggravated kidnapping under Section 76-5-302;  
 2113 (r) human trafficking for labor under Section 76-5-308;  
 2114 (s) human trafficking for commercial sexual exploitation under Section 76-5-308.1;  
 2115 [~~(t)~~] ~~human smuggling under Section 76-5-308.3;~~  
 2116 [~~(u)~~] (t) human trafficking of a child for labor under Section 76-5-308.5;  
 2117 (u) human trafficking of a child for commercial sexual exploitation under Section  
 2118 76-5-308.6;  
 2119 [~~(v)~~] ~~benefiting from trafficking and human smuggling under Section 76-5-309;~~  
 2120 [~~(w)~~] (v) aggravated human trafficking for labor under Section 76-5-310;  
 2121 (w) aggravated human trafficking for commercial sexual exploitation under Section  
 2122 76-5-310.2;  
 2123 (x) human trafficking of a vulnerable adult for labor under Section 76-5-311;  
 2124 (y) human trafficking of a vulnerable adult for commercial sexual exploitation under  
 2125 Section 76-5-312;  
 2126 (z) human smuggling under Section 76-5-316;  
 2127 (aa) aggravated human smuggling under Section 76-5-317;  
 2128 [~~(x)~~] (bb) sexual exploitation of a minor under Section 76-5b-201;  
 2129 [~~(y)~~] (cc) aggravated sexual exploitation of a minor under Section 76-5b-201.1;  
 2130 [~~(z)~~] (dd) sexual extortion under Section 76-5b-204;  
 2131 [~~(aa)~~] (ee) arson under Section 76-6-102;  
 2132 [~~(bb)~~] (ff) aggravated arson under Section 76-6-103;  
 2133 [~~(ee)~~] (gg) causing a catastrophe under Section 76-6-105;  
 2134 [~~(dd)~~] (hh) burglary under Section 76-6-202;  
 2135 [~~(ee)~~] (ii) aggravated burglary under Section 76-6-203;  
 2136 [~~(ff)~~] (jj) burglary of a vehicle under Section 76-6-204;  
 2137 [~~(gg)~~] (kk) manufacture or possession of an instrument for burglary or theft under  
 2138 Section 76-6-205;

2139 [~~(hh)~~] (ll) robbery under Section 76-6-301;  
 2140 [~~(ii)~~] (mm) aggravated robbery under Section 76-6-302;  
 2141 [~~(jj)~~] (nn) theft under Section 76-6-404;  
 2142 [~~(kk)~~] (oo) theft by deception under Section 76-6-405;  
 2143 [~~(H)~~] (pp) theft by extortion under Section 76-6-406;  
 2144 [~~(mm)~~] (qq) receiving stolen property under Section 76-6-408;  
 2145 [~~(nn)~~] (rr) theft of services under Section 76-6-409;  
 2146 [~~(oo)~~] (ss) forgery under Section 76-6-501;  
 2147 [~~(pp)~~] (tt) unlawful use of financial transaction card under Section 76-6-506.2;  
 2148 [~~(qq)~~] (uu) unlawful acquisition, possession, or transfer of financial transaction card  
 2149 under Section 76-6-506.3;  
 2150 [~~(rr)~~] (vv) financial transaction card offenses under Section 76-6-506.6;  
 2151 [~~(ss)~~] (ww) deceptive business practices under Section 76-6-507;  
 2152 [~~(tt)~~] (xx) bribery or receiving bribe by person in the business of selection, appraisal, or  
 2153 criticism of goods under Section 76-6-508;  
 2154 [~~(uu)~~] (yy) bribery of a labor official under Section 76-6-509;  
 2155 [~~(vv)~~] (zz) defrauding creditors under Section 76-6-511;  
 2156 [~~(ww)~~] (aaa) acceptance of deposit by insolvent financial institution under Section  
 2157 76-6-512;  
 2158 [~~(xx)~~] (bbb) unlawful dealing with property by fiduciary under Section 76-6-513;  
 2159 [~~(yy)~~] (ccc) unlawful influence of a contest under Section 76-6-514;  
 2160 [~~(zz)~~] (ddd) making a false credit report under Section 76-6-517;  
 2161 [~~(aaa)~~] (eee) criminal simulation under Section 76-6-518;  
 2162 [~~(bbb)~~] (fff) criminal usury under Section 76-6-520;  
 2163 [~~(eee)~~] (ggg) insurance fraud under Section 76-6-521;  
 2164 [~~(ddd)~~] (hhh) retail theft under Section 76-6-602;  
 2165 [~~(eee)~~] (iii) computer crimes under Section 76-6-703;  
 2166 [~~(fff)~~] (jjj) identity fraud under Section 76-6-1102;  
 2167 [~~(ggg)~~] (kkk) mortgage fraud under Section 76-6-1203;  
 2168 [~~(hhh)~~] (lll) sale of a child under Section 76-7-203;  
 2169 [~~(iii)~~] (mmm) bribery or offering a bribe under Section 76-8-103;  
 2170 [~~(jjj)~~] (nnn) threat to influence official or political action under Section 76-8-104;  
 2171 [~~(kkk)~~] (ooo) receiving bribe or bribery by public servant under Section 76-8-105;  
 2172 [~~(H)~~] (ppp) receiving bribe for endorsement of person as a public servant under Section



2173 76-8-106;  
 2174 [~~(mmm)~~] (qqq) bribery for endorsement of person as public servant under Section  
 2175 76-8-106.1;  
 2176 [~~(nnn)~~] (rrr) official misconduct based on unauthorized act or failure of duty under  
 2177 Section 76-8-201;  
 2178 [~~(ooo)~~] (sss) official misconduct concerning inside information under Section 76-8-202;  
 2179 [~~(ppp)~~] (ttt) obstruction of justice in a criminal investigation or proceeding under Section  
 2180 76-8-306;  
 2181 [~~(qqq)~~] (uuu) acceptance of bribe or bribery to prevent criminal prosecution under  
 2182 Section 76-8-308;  
 2183 [~~(rrr)~~] (vvv) harboring or concealing offender who has escaped from official custody  
 2184 under Section 76-8-309.2;  
 2185 [~~(sss)~~] (www) making a false or inconsistent material statement under Section 76-8-502;  
 2186 [~~(ttt)~~] (xxx) making a false or inconsistent statement under Section 76-8-503;  
 2187 [~~(uuu)~~] (yyy) making a written false statement under Section 76-8-504;  
 2188 [~~(vvv)~~] (zzz) tampering with a witness under Section 76-8-508;  
 2189 [~~(www)~~] (aaa) retaliation against a witness, victim, or informant under Section  
 2190 76-8-508.3;  
 2191 [~~(xxx)~~] (bbb) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
 2192 [~~(yyy)~~] (ccc) extortion or bribery to dismiss a criminal proceeding under Section  
 2193 76-8-509;  
 2194 [~~(zzz)~~] (ddd) tampering with evidence under Section 76-8-510.5;  
 2195 [~~(aaa)~~] (eee) falsification or alteration of a government record under Section 76-8-511,  
 2196 if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,  
 2197 Lobbyist Disclosure and Regulation Act;  
 2198 [~~(bbb)~~] (fff) public assistance fraud by an applicant for public assistance under Section  
 2199 76-8-1203.1;  
 2200 [~~(eee)~~] (ggg) public assistance fraud by a recipient of public assistance under Section  
 2201 76-8-1203.3;  
 2202 [~~(ddd)~~] (hhh) public assistance fraud by a provider under Section 76-8-1203.5;  
 2203 [~~(eee)~~] (iii) fraudulently misappropriating public assistance funds under Section  
 2204 76-8-1203.7;  
 2205 [~~(fff)~~] (jjj) false statement to obtain or increase unemployment compensation under  
 2206 Section 76-8-1301;

2207 [~~(gggg)~~] (kkkk) false statement to prevent or reduce unemployment compensation or  
2208 liability under Section 76-8-1302;  
2209 [~~(hhhh)~~] (llll) unlawful failure to comply with Employment Security Act requirements  
2210 under Section 76-8-1303;  
2211 [~~(iiii)~~] (mmmm) unlawful use or disclosure of employment information under Section  
2212 76-8-1304;  
2213 [~~(jjjj)~~] (nnnn) intentionally or knowingly causing one animal to fight with another under  
2214 Subsection 76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning  
2215 dog fighting;  
2216 [~~(kkkk)~~] (oooo) soliciting, recruiting, enticing, or intimidating a minor to join a criminal  
2217 street gang under Section 76-9-803;  
2218 [~~(HHH)~~] (pppp) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a  
2219 criminal street gang under Section 76-9-803.1;  
2220 [~~(mmmm)~~] (qqqq) intimidating a minor to remain in a criminal street gang under Section  
2221 76-9-803.2;  
2222 [~~(nnnn)~~] (rrrr) aggravated intimidating a minor to remain in a criminal street gang under  
2223 Section 76-9-803.3;  
2224 [~~(oooo)~~] (ssss) unlawful conduct involving an explosive, chemical, or incendiary device  
2225 under Section 76-15-210;  
2226 [~~(pppp)~~] (tttt) unlawful conduct involving an explosive, chemical, or incendiary part  
2227 under Section 76-15-211;  
2228 [~~(qqqq)~~] (uuuu) unlawful delivery or mailing of an explosive, chemical, or incendiary  
2229 device under Section 76-15-209;  
2230 [~~(rrrr)~~] (vvvv) forging or counterfeiting trademarks, trade name, or trade device under  
2231 Section 76-16-302;  
2232 [~~(ssss)~~] (www) selling goods under counterfeited trademark, trade name, or trade  
2233 devices under Section 76-16-303;  
2234 [~~(tttt)~~] (xxxx) sales in containers bearing registered trademark of substituted articles  
2235 under Section 76-16-304;  
2236 [~~(uuuu)~~] (yyyy) selling or dealing with article bearing registered trademark or service  
2237 mark with intent to defraud under Section 76-16-306;  
2238 [~~(vvvv)~~] (zzzz) participating in gambling under Section 76-9-1402;  
2239 [~~(wwww)~~] (aaaa) permitting gambling under Section 76-9-1403;  
2240 [~~(xxxx)~~] (bbbb) online gambling prohibition under Section 76-9-1404;

2241 [(yyyy)] (cccc) gambling promotion under Section 76-9-1405;  
 2242 [(zzzz)] (dddd) gambling fraud under Section 76-9-1406;  
 2243 [(aaaa)] (eeee) possessing a gambling device or record under Section 76-9-1407;  
 2244 [(bbbb)] (ffff) obtaining a benefit from a confidence game under Section 76-9-1410;  
 2245 [(eeee)] (gggg) distributing pornographic material under Section 76-5c-202;  
 2246 [(dddd)] (hhhh) aiding or abetting a minor in distributing pornographic material under  
 2247 Section 76-5c-203;  
 2248 [(eeee)] (iiii) inducing acceptance of pornographic material under Section 76-5c-204;  
 2249 [(ffff)] (jjjj) distributing material harmful to minors under Section 76-5c-205;  
 2250 [(gggg)] (kkkk) aiding or abetting a minor in distributing material harmful to minors  
 2251 under Section 76-5c-206;  
 2252 [(hhhh)] (llll) distribution of a pornographic file for exhibition under Section 76-5c-305;  
 2253 [(iiii)] (mmmm) indecent public display in the presence of a minor under Section  
 2254 76-5c-207;  
 2255 [(jjjj)] (nnnn) engaging in prostitution under Section 76-5d-202;  
 2256 [(kkkk)] (oooo) aiding prostitution under Section 76-5d-206;  
 2257 [(HHH)] (pppp) exploiting prostitution under Section 76-5d-207;  
 2258 [(mmmm)] (qqqq) aggravated exploitation of prostitution under Section 76-5d-208;  
 2259 [(nnnn)] (rrrr) communications fraud under Section 76-6-525;  
 2260 [(oooo)] (ssss) possession of a dangerous weapon with criminal intent under Section  
 2261 76-11-208;  
 2262 [(pppp)] (tttt) an act prohibited by the criminal provisions of Chapter 9, Part 16, Money  
 2263 Laundering and Currency Transaction Reporting;  
 2264 [(qqqq)] (uuuu) vehicle compartment for contraband under Section 76-9-1902 or  
 2265 76-9-1903;  
 2266 [(rrrr)] (vvvv) an act prohibited by the criminal provisions of the laws governing  
 2267 taxation in this state; or  
 2268 [(ssss)] (wwww) an act illegal under the laws of the United States and enumerated in  
 2269 18 U.S.C. Secs. 1961(1)(B), (C), and (D).  
 2270 Section 32. Section **77-22-2.5** is amended to read:  
 2271 **77-22-2.5 . Court orders for criminal investigations for records concerning an**  
 2272 **electronic communications system or service or remote computing service -- Content --**  
 2273 **Fee for providing information.**  
 2274 (1) As used in this section:

- 2275 (a)(i) "Electronic communication" means any transfer of signs, signals, writing,  
2276 images, sounds, data, or intelligence of any nature transmitted in whole or in part  
2277 by a wire, radio, electromagnetic, photoelectronic, or photooptical system.
- 2278 (ii) "Electronic communication" does not include:  
2279 (A) a wire or oral communication;  
2280 (B) a communication made through a tone-only paging device;  
2281 (C) a communication from a tracking device; or  
2282 (D) electronic funds transfer information stored by a financial institution in a  
2283 communications system used for the electronic storage and transfer of funds.
- 2284 (b) "Electronic communications service" means a service which provides for users the  
2285 ability to send or receive wire or electronic communications.
- 2286 (c) "Electronic communications system" means a wire, radio, electromagnetic,  
2287 photooptical, or photoelectronic facilities for the transmission of wire or electronic  
2288 communications, and a computer facilities or related electronic equipment for the  
2289 electronic storage of the communication.
- 2290 (d) "Internet service provider" means the same as that term is defined in Section  
2291 76-5c-401.
- 2292 (e) "Prosecutor" means the same as that term is defined in Section 77-22-4.5.
- 2293 (f) "Remote computing service" means the provision to the public of computer storage  
2294 or processing services by means of an electronic communications system.
- 2295 (g)(i) "Sexual offense against a minor" means:  
2296 (A) sexual exploitation of a minor or attempted sexual exploitation of a minor in  
2297 violation of Section 76-5b-201;  
2298 (B) aggravated sexual exploitation of a minor or attempted aggravated sexual  
2299 exploitation of a minor in violation of Section 76-5b-201.1;  
2300 (C) a sexual offense or attempted sexual offense committed against a minor in  
2301 violation of Title 76, Chapter 5, Part 4, Sexual Offenses;  
2302 (D) dealing in or attempting to deal in material harmful to a minor in violation of  
2303 Section 76-5c-205 or 76-5c-206;  
2304 (E) human trafficking of a child for commercial sexual exploitation in violation of  
2305 Section [76-5-308.5] 76-5-308.6; or  
2306 (F) aggravated sexual extortion of a child in violation of Section 76-5b-204.
- 2307 (ii) "Sexual offense against a minor" does not include an offense described in Section  
2308 76-5-418, 76-5-419, or 76-5-420.

- (2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:
- (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 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~~] Chapter 23b, Access to Electronic Communications.
- (b) Rights and remedies for providers and subscribers under [~~Title 77, Chapter 23b, Access to Electronic Communications~~] 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 33. 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;
- (c) an offense:
- (i) of:
    - (A) attempt under Section 76-4-101;
    - (B) conspiracy under Section 76-4-201;
    - (C) criminal solicitation of an adult, Section 76-4-203; or
    - (D) criminal solicitation of a minor, Section 76-4-205; and
  - (ii) punishable by a term of imprisonment of more than one year;
- (d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year under Section 76-5-107.3;
- (e)(i) aggravated murder under Section 76-5-202;
- (ii) murder under Section 76-5-203; or
  - (iii) manslaughter under Section 76-5-205;
- (f)(i) kidnapping under Section 76-5-301;
- (ii) child kidnapping under Section 76-5-301.1;
  - (iii) aggravated kidnapping under Section 76-5-302;
  - (iv) human trafficking for labor under Section 76-5-308;
  - (v) human trafficking for commercial sexual exploitation under Section 76-5-308.1;
  - (vi) human trafficking of a child for labor under Section 76-5-308.5;
  - (vii) human trafficking of a child for commercial sexual exploitation under Section 76-5-308.6;
  - ~~[(vii) human smuggling under Section 76-5-308.3;]~~
  - (viii) aggravated human trafficking for labor under Section 76-5-310; ~~[or]~~
  - (ix) aggravated human trafficking for commercial sexual exploitation under Section 76-5-310.2;
  - (x) human trafficking of a vulnerable adult for labor under Section 76-5-311;
  - (xi) human trafficking of a vulnerable adult for commercial sexual exploitation

2411                   under Section 76-5-312;  
2412                   (xii) human smuggling under Section 76-5-316; or  
2413                   ~~[(ix)]~~ (xiii) aggravated human smuggling under Section [76-5-310.1] 76-5-317;  
2414                   (g)(i) arson under Section 76-6-102; or  
2415                   (ii) aggravated arson under Section 76-6-103;  
2416                   (h)(i) burglary under Section 76-6-202; or  
2417                   (ii) aggravated burglary under Section 76-6-203;  
2418                   (i)(i) robbery under Section 76-6-301; or  
2419                   (ii) aggravated robbery under Section 76-6-302;  
2420                   (j) an offense:  
2421                   (i) of:  
2422                   (A) theft under Section 76-6-404;  
2423                   (B) theft by deception under Section 76-6-405; or  
2424                   (C) theft by extortion under Section 76-6-406; and  
2425                   (ii) punishable by a maximum term of imprisonment of more than one year;  
2426                   (k) an offense of receiving stolen property that is punishable by a maximum term of  
2427                   imprisonment of more than one year under Section 76-6-408;  
2428                   (l) a financial card transaction offense punishable by a maximum term of imprisonment  
2429                   of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;  
2430                   (m) bribery of a labor official under Section 76-6-509;  
2431                   (n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;  
2432                   (o) a criminal simulation offense punishable by a maximum term of imprisonment of  
2433                   more than one year under Section 76-6-518;  
2434                   (p) criminal usury under Section 76-6-520;  
2435                   (q) insurance fraud punishable by a maximum term of imprisonment of more than one  
2436                   year under Section 76-6-521;  
2437                   (r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable  
2438                   by a maximum term of imprisonment of more than one year under Section 76-6-703;  
2439                   (s) bribery to influence official or political actions under Section 76-8-103;  
2440                   (t) misusing public money or public property under Section 76-8-402;  
2441                   (u) tampering with a witness under Section 76-8-508;  
2442                   (v) retaliation against a witness, victim, or informant under Section 76-8-508.3;  
2443                   (w) tampering or retaliating against a juror under Section 76-8-508.5;  
2444                   (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;



- 2445 (y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;  
2446 (z) obstruction of justice in a criminal investigation or proceeding under Section  
2447 76-8-306;  
2448 (aa) harboring or concealing offender who has escaped from official custody under  
2449 Section 76-8-309.2;  
2450 (bb) destruction of property to interfere with preparations for defense or war under  
2451 Section 76-8-802;  
2452 (cc) an attempt to commit crimes of sabotage under Section 76-8-804;  
2453 (dd) conspiracy to commit crimes of sabotage under Section 76-8-805;  
2454 (ee) advocating criminal syndicalism or sabotage under Section 76-8-902;  
2455 (ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;  
2456 (gg) riot punishable by a maximum term of imprisonment of more than one year under  
2457 Section 76-9-101;  
2458 (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a  
2459 maximum term of imprisonment of more than one year under Section 76-13-205;  
2460 (ii) delivery to a common carrier or mailing of an explosive, chemical, or incendiary  
2461 device under Section 76-15-209;  
2462 (jj) unlawful conduct involving an explosive, chemical, or incendiary device under  
2463 Section 76-15-210;  
2464 (kk) unlawful conduct involving an explosive, chemical, or incendiary part under  
2465 Section 76-15-211;  
2466 (ll) exploiting prostitution under Section 76-5d-207;  
2467 (mm) aggravated exploitation of prostitution under Section 76-5d-208;  
2468 (nn) bus hijacking under Section 76-9-1502;  
2469 (oo) assault with intent to commit bus hijacking under Section 76-9-1503;  
2470 (pp) unlawful discharge of a firearm or hurling of a missile into a bus or terminal under  
2471 Section 76-9-1504;  
2472 (qq) violations under Title 76, Chapter 17, Part 4, Offenses Concerning [a-Pattern]  
2473 Patterns of Unlawful Activity, and the offenses listed under the definition of unlawful  
2474 activity in the act, including the offenses not punishable by a maximum term of  
2475 imprisonment of more than one year when those offenses are investigated as  
2476 predicates for the offenses prohibited by the act under Section 76-17-401;  
2477 (rr) communications fraud under Section 76-6-525;  
2478 (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 34. Section **77-38-3** is amended to read:

**77-38-3 . Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.**

- (1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.
- (2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.
- (3) The prosecuting agency shall provide notice to a victim of a crime:
  - (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and
  - (b) for a restitution request to be submitted in accordance with Section 77-38b-202.
- (4)(a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.
- (b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.
- (5)(a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.
- (b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.
- (6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole created in Section 64-14-202, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal

justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and

Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10)(a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12)(a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

- (v) the Utah Office for Victims of Crime;
- (vi) the Commission on Criminal and Juvenile Justice;
- (vii) the Utah State Courts; and
- (viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14)(a) When a defendant is charged with a felony crime under Sections 76-5-301 through [76-5-310.1] 76-5-317 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-5d-208 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

- (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;
- (ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and
- (iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c)(i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15)(a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 35. Section **77-38-601** is amended to read:

2581           **77-38-601 . Definitions.**

2582           As used in this part:

2583       (1) "Abuse" means any of the following:

2584           (a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

2585           (b) "child abuse" as that term is defined in Section 76-5-109.

2586       (2) "Actual address" means the residential street address of the program participant that is  
2587           stated in a program participant's application for enrollment or on a notice of a change of  
2588           address under Section 77-38-610.2589       (3) "Assailant" means an individual who commits or threatens to commit abuse, human  
2590           trafficking, domestic violence, stalking, or a sexual offense against an applicant for the  
2591           program or a minor or incapacitated individual residing with an applicant for the  
2592           program.2593       (4) "Assigned address" means an address designated by the commission and assigned to a  
2594           program participant.2595       (5) "Authorization card" means a card issued by the commission that identifies a program  
2596           participant as enrolled in the program with the program participant's assigned address  
2597           and the date on which the program participant will no longer be enrolled in the program.2598       (6) "Commission" means the State Commission on Criminal and Juvenile Justice created in  
2599           Section 63M-7-201.

2600       (7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

2601       (8) "Human trafficking" means a human trafficking offense under Section 76-5-308,  
2602           76-5-308.1, 76-5-308.5, 76-5-308.6, 76-5-310, 76-5-310.2, 76-5-311, or 76-5-312.2603       (9) "Incapacitated individual" means an individual who is incapacitated, as defined in  
2604           Section 75-1-201.2605       (10)(a) "Mail" means first class letters or flats delivered by the United States Postal  
2606           Service, including priority, express, and certified mail.2607           (b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the  
2608           package, parcel, periodical, or catalogue is clearly identifiable as:

2609               (i) being sent by a federal, state, or local agency or another government entity; or

2610               (ii) a pharmaceutical or medical item.

2611       (11) "Minor" means an individual who is younger than 18 years old.

2612       (12) "Notification form" means a form issued by the commission that a program participant  
2613           may send to a person demonstrating that the program participant is enrolled in the  
2614           program.

- (13) "Program" means the Safe at Home Program created in Section 77-38-602.
- (14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.
- (15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.
- (16) "Record" means the same as that term is defined in Section 63G-2-103.
- (17)(a) "Sexual offense" means:
- (i) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or
  - (ii) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.
- (b) "Sexual offense" does not include an offense under:
- (i) Section 76-5-417, enticing a minor;
  - (ii) Section 76-5-418, sexual battery;
  - (iii) Section 76-5-419, lewdness;
  - (iv) Section 76-5-420, lewdness involving a child; or
  - (v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.
- (18) "Stalking" means the same as that term is defined in Section 76-5-106.5.
- (19) "State or local government entity" means a county, municipality, higher education institution, special district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:
- (a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or
  - (b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.
- (20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 36. Section **78B-3-113** is amended to read:

**78B-3-113 . Right of action for a victim of a human trafficking offense.**

- (1) As used in this section:
- (a) "Human trafficking offense" means an offense for:
    - (i) human trafficking for labor under Section 76-5-308;
    - (ii) human trafficking for commercial sexual exploitation under Section 76-5-308.1;

- ~~[(iii) human smuggling under Section 76-5-308.3;]~~
- ~~[(iv)] (iii) human trafficking of a child for labor under Section 76-5-308.5;~~
- ~~(iv) human trafficking of a child for commercial sexual exploitation under Section 76-5-308.6;~~
- ~~(v) aggravated human trafficking for labor under Section 76-5-310;~~
- ~~(vi) aggravated human trafficking for commercial sexual exploitation under Section 76-5-310.2;~~
- ~~(vii) human trafficking of a vulnerable adult for labor under Section 76-5-311;~~
- ~~(viii) human trafficking of a vulnerable adult for commercial sexual exploitation under Section 76-5-312;~~
- ~~(ix) patronizing a victim of human labor trafficking under Section 76-5-313;~~
- ~~(x) patronizing a child victim of human labor trafficking under Section 76-5-314;~~
- ~~(xi) patronizing a vulnerable adult victim of human labor trafficking under Section 76-5-315;~~
- ~~(xii) human smuggling under Section 76-5-316; or~~
- ~~[(vi)] (xiii) aggravated human smuggling under Section [76-5-310.1; or] 76-5-317.~~
- ~~[(vii) benefitting from human trafficking under Section 76-5-309.]~~

(b) "Victim" means an individual against whom a human trafficking offense has been committed.

- (2) A victim has a right of action against a person that committed a human trafficking offense against the victim to recover:
  - (a) actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief for the human trafficking offense; and
  - (b) treble damages on proof of actual damages for the human trafficking offense if the court finds that the person's acts were willful and malicious.
- (3) Notwithstanding any other statute of limitation or repose that may be applicable to an action described in this section, a victim may only bring an action described in this section within 10 years after the later of:
  - (a) the day on which the victim was freed from the human trafficking or human smuggling situation;
  - (b) the day on which the victim reaches 18 years old; or
  - (c) if the victim was unable to bring an action due to a disability, the day on which the victim's disability ends.
- (4) The time period described in Subsection (3) is tolled during a period of time when the

victim fails to bring an action due to the person:

(a) inducing the victim to delay filing the action;

(b) preventing the victim from filing the action; or

(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.

(5) The court shall credit any restitution paid by the person to the victim as described in Subsection 77-38b-303(5)(b).

(6) The court shall award reasonable attorney fees and costs as described in Subsection 77-38b-303(7) in an action brought under this section.

(7)(a) Notwithstanding Chapter 3a, Venue for Civil Actions, a victim shall bring an action under this section in the county in which:

(i) the human trafficking offense occurred;

(ii) the victim resides; or

(iii) the defendant resides at the commencement of the action.

(b) If the defendant is a business organization as defined in Section 78B-3a-101, the residence of the business organization is as described in Section 78B-3a-104.

(8) If the victim is deceased or otherwise unable to represent the victim's own interests in the action, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.

(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

Section 37. Section **78B-7-201** is amended to read:

**78B-7-201 . Definitions.**

As used in this chapter:

(1) "Abuse" means:

(a) physical abuse;

(b) sexual abuse;

(c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or

(d) human trafficking of a child for commercial sexual exploitation under Section [ ~~76-5-308.5~~] 76-5-308.6.

(2) "Child protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

(3) "Court" means the district court or juvenile court.

(4) "Ex parte child protective order" means an order issued without notice to the respondent



2717 under this part.

2718 (5) "Protective order" means:

2719 (a) a child protective order; or

2720 (b) an ex parte child protective order.

2721 (6) All other terms have the same meaning as defined in Section 80-1-102.

2722 Section 38. Section **78B-7-502** is amended to read:

2723 **78B-7-502 . Definitions.**

2724 As used in this part:

2725 (1) "Ex parte sexual violence protective order" means an order issued without notice to the  
2726 respondent under this part.

2727 (2) "Protective order" means:

2728 (a) a sexual violence protective order; or

2729 (b) an ex parte sexual violence protective order.

2730 (3)(a) "Sexual violence" means the commission or the attempt to commit:

2731 (i) any sexual offense described in:

2732 (A) Title 76, Chapter 5, Part 4, Sexual Offenses; or

2733 (B) Title 76, Chapter 5b, Part 2, Sexual Exploitation;

2734 (ii) human trafficking for commercial sexual exploitation under Section 76-5-308.1;

2735 or

2736 (iii) aggravated human trafficking for [~~forced~~] commercial sexual exploitation under

2737 Section [~~76-5-310~~] 76-5-310.2.

2738 (b) "Sexual violence" does not include an offense described in:

2739 (i) Section 76-5-417, enticing a minor;

2740 (ii) Section 76-5-418, sexual battery;

2741 (iii) Section 76-5-419, lewdness;

2742 (iv) Section 76-5-420, lewdness involving a child; or

2743 (v) Section 76-5b-206, failure to report child sexual abuse material by a computer  
2744 technician.

2745 (4) "Sexual violence protective order" means an order issued under this part after a hearing  
2746 on the petition, of which the petitioner and respondent have been given notice.

2747 Section 39. Section **80-1-102** is amended to read:

2748 **80-1-102 . Juvenile Code definitions.**

2749 Except as provided in Section 80-6-1103, as used in this title:

2750 (1)(a) "Abuse" means:

- 2751 (i)(A) nonaccidental harm of a child;  
2752 (B) threatened harm of a child;  
2753 (C) sexual exploitation;  
2754 (D) sexual abuse; or  
2755 (E) human trafficking of a child for labor in violation of Section 76-5-308.5;  
2756 (F) human trafficking of a child for commercial sexual exploitation in violation of  
2757 section 76-5-308.6; or  
2758 (ii) that a child's parent:  
2759 (A) intentionally, knowingly, or recklessly causes the death of another parent of  
2760 the child;  
2761 (B) is identified by a law enforcement agency as the primary suspect in an  
2762 investigation for intentionally, knowingly, or recklessly causing the death of  
2763 another parent of the child; or  
2764 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
2765 recklessly causing the death of another parent of the child.  
2766 (b) "Abuse" does not include:  
2767 (i) reasonable discipline or management of a child, including withholding privileges;  
2768 (ii) conduct described in Section 76-2-401; or  
2769 (iii) the use of reasonable and necessary physical restraint or force on a child:  
2770 (A) in self-defense;  
2771 (B) in defense of others;  
2772 (C) to protect the child; or  
2773 (D) to remove a weapon in the possession of a child for any of the reasons  
2774 described in Subsections (1)(b)(iii)(A) through (C).  
2775 (2) "Abused child" means a child who has been subjected to abuse.  
2776 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):  
2777 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile  
2778 Justice:  
2779 (A) a finding by the juvenile court that the facts alleged in a delinquency petition  
2780 or criminal information alleging that a minor committed an offense have been  
2781 proved;  
2782 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;  
2783 or  
2784 (C) a plea of no contest by minor in the juvenile court; or

- 2785 (ii) for all other proceedings under this title, a finding by the juvenile court that the  
2786 facts alleged in the petition have been proved.
- 2787 (b) "Adjudication" does not include:
- 2788 (i) an admission by a minor described in Section 80-6-306 until the juvenile court  
2789 enters the minor's admission; or
- 2790 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 2791 (4)(a) "Adult" means an individual who is 18 years old or older.
- 2792 (b) "Adult" does not include an individual:
- 2793 (i) who is 18 years old or older; and
- 2794 (ii) who is a minor.
- 2795 (5) "Attorney guardian ad litem" means the same as that term is defined in Section  
2796 78A-2-801.
- 2797 (6) "Board" means the Board of Juvenile Court Judges.
- 2798 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18  
2799 years old.
- 2800 (8) "Child and family plan" means a written agreement between a child's parents or  
2801 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 2802 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 2803 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 2804 (11) "Child protection team" means a team consisting of:
- 2805 (a) the child welfare caseworker assigned to the case;
- 2806 (b) if applicable, the child welfare caseworker who made the decision to remove the  
2807 child;
- 2808 (c) a representative of the school or school district where the child attends school;
- 2809 (d) if applicable, the law enforcement officer who removed the child from the home;
- 2810 (e) a representative of the appropriate Children's Justice Center, if one is established  
2811 within the county where the child resides;
- 2812 (f) if appropriate, and known to the division, a therapist or counselor who is familiar  
2813 with the child's circumstances;
- 2814 (g) if appropriate, a representative of law enforcement selected by the chief of police or  
2815 sheriff in the city or county where the child resides; and
- 2816 (h) any other individuals determined appropriate and necessary by the team coordinator  
2817 and chair.
- 2818 (12)(a) "Chronic abuse" means repeated or patterned abuse.

- 2819 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 2820 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 2821 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 2822 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
- 2823 58-37d-3.
- 2824 (15) "Commit" or "committed" means, unless specified otherwise:
- 2825 (a) with respect to a child, to transfer legal custody; and
- 2826 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 2827 (16) "Community-based program" means a nonsecure residential or nonresidential program,
- 2828 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
- 2829 restrictive setting, consistent with public safety, and operated by or under contract with
- 2830 the Division of Juvenile Justice and Youth Services.
- 2831 (17) "Community placement" means placement of a minor in a community-based program
- 2832 described in Section 80-5-402.
- 2833 (18) "Correctional facility" means:
- 2834 (a) a county jail; or
- 2835 (b) a secure correctional facility as defined in Section 64-13-1.
- 2836 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
- 2837 minor's likelihood of reoffending.
- 2838 (20) "Department" means the Department of Health and Human Services created in Section
- 2839 26B-1-201.
- 2840 (21) "Dependent child" or "dependency" means a child who is without proper care through
- 2841 no fault of the child's parent, guardian, or custodian.
- 2842 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
- 2843 parent or a previous custodian to another person, agency, or institution.
- 2844 (23) "Detention" means home detention or secure detention.
- 2845 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
- 2846 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 2847 (25) "Detention risk assessment tool" means an evidence-based tool established under
- 2848 Section 80-5-203 that:
- 2849 (a) assesses a minor's risk of failing to appear in court or reoffending before
- 2850 adjudication; and
- 2851 (b) is designed to assist in making a determination of whether a minor shall be held in
- 2852 detention.

- (26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:
- (a) consult with counsel with a reasonable degree of rational understanding; and
  - (b) have a rational as well as factual understanding of the proceedings.
- (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- (28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.
- (29) "Educational series" means an evidence-based instructional series:
- (a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and
  - (b) designed to prevent substance use or the onset of a mental health disorder.
- (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- (31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.
- (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- (33) "Formal probation" means a minor is:
- (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and
  - (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- (34) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- (35) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.
- (36) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:
- (a) marriage;
  - (b) enlistment in the armed forces;
  - (c) major medical, surgical, or psychiatric treatment; or
  - (d) legal custody, if legal custody is not vested in another individual, agency, or institution.
- (37) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

- 2887 (38) "Harm" means:
- 2888 (a) physical or developmental injury or damage;
- 2889 (b) emotional damage that results in a serious impairment in the child's growth,
- 2890 development, behavior, or psychological functioning;
- 2891 (c) sexual abuse; or
- 2892 (d) sexual exploitation.
- 2893 (39) "Home detention" means placement of a minor:
- 2894 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent
- 2895 of the minor's parent, guardian, or custodian, under terms and conditions established
- 2896 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 2897 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
- 2898 minor's home, or in a surrogate home with the consent of the minor's parent,
- 2899 guardian, or custodian, under terms and conditions established by the Division of
- 2900 Juvenile Justice and Youth Services or the juvenile court.
- 2901 (40)(a) "Incest" means engaging in sexual intercourse with an individual whom the
- 2902 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
- 2903 aunt, nephew, niece, or first cousin.
- 2904 (b) "Incest" includes:
- 2905 (i) blood relationships of the whole or half blood, regardless of whether the
- 2906 relationship is legally recognized;
- 2907 (ii) relationships of parent and child by adoption; and
- 2908 (iii) relationships of stepparent and stepchild while the marriage creating the
- 2909 relationship of a stepparent and stepchild exists.
- 2910 (41) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 2911 (42) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 2912 (43) "Indigent defense service provider" means the same as that term is defined in Section
- 2913 78B-22-102.
- 2914 (44) "Indigent defense services" means the same as that term is defined in Section
- 2915 78B-22-102.
- 2916 (45) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 2917 (46)(a) "Intake probation" means a minor is:
- 2918 (i) monitored by a juvenile probation officer; and
- 2919 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 2920 (b) "Intake probation" does not include formal probation.

(47) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(48) "Juvenile offender" means:

- (a) a serious youth offender; or
- (b) a youth offender.

(49) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(50) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(51) "Legal custody" means a relationship embodying:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary[-] care.

(52) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(53) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(54) "Mental illness" means:

- (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
- (b) the same as that term is defined in:
  - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
  - (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(55) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

- (a) a child; or
- (b) an individual:

- 2955 (i)(A) who is at least 18 years old and younger than 21 years old; and  
2956 (B) for whom the Division of Child and Family Services has been specifically  
2957 ordered by the juvenile court to provide services because the individual was an  
2958 abused, neglected, or dependent child or because the individual was  
2959 adjudicated for an offense;
- 2960 (ii)(A) who is at least 18 years old and younger than 25 years old; and  
2961 (B) whose case is under the jurisdiction of the juvenile court in accordance with  
2962 Subsection 78A-6-103(1)(b); or
- 2963 (iii)(A) who is at least 18 years old and younger than 21 years old; and  
2964 (B) whose case is under the jurisdiction of the juvenile court in accordance with  
2965 Subsection 78A-6-103(1)(c).

2966 (56) "Mobile crisis outreach team" means the same as that term is defined in Section  
2967 26B-5-101.

2968 (57) "Molestation" means that an individual, with the intent to arouse or gratify the sexual  
2969 desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,  
2970 or the breast of a female child, or takes indecent liberties with a child as defined in  
2971 Section 76-5-401.1.

2972 (58)(a) "Neglect" means action or inaction causing:

- 2973 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe  
2974 Relinquishment of a Newborn Child;
- 2975 (ii) lack of proper parental care of a child by reason of the fault or habits of the  
2976 parent, guardian, or custodian;
- 2977 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or  
2978 necessary subsistence or medical care, or any other care necessary for the child's  
2979 health, safety, morals, or well-being;
- 2980 (iv) a child to be at risk of being neglected or abused because another child in the  
2981 same home is neglected or abused;
- 2982 (v) abandonment of a child through an unregulated child custody transfer under  
2983 Section 81-14-203; or
- 2984 (vi) educational neglect.

2985 (b) "Neglect" does not include:

- 2986 (i) a parent or guardian legitimately practicing religious beliefs and who, for that  
2987 reason, does not provide specified medical treatment for a child;
- 2988 (ii) a health care decision made for a child by the child's parent or guardian, unless



- 2989 the state or other party to a proceeding shows, by clear and convincing evidence,  
2990 that the health care decision is not reasonable and informed;
- 2991 (iii) a parent or guardian exercising the right described in Section 80-3-304; or  
2992 (iv) permitting a child, whose basic needs are met and who is of sufficient age and  
2993 maturity to avoid harm or unreasonable risk of harm, to engage in independent  
2994 activities, including:
- 2995 (A) traveling to and from school, including by walking, running, or bicycling;  
2996 (B) traveling to and from nearby commercial or recreational facilities;  
2997 (C) engaging in outdoor play;  
2998 (D) remaining in a vehicle unattended, except under the conditions described in  
2999 Subsection 76-5-115(2);  
3000 (E) remaining at home unattended; or  
3001 (F) engaging in a similar independent activity.
- 3002 (59) "Neglected child" means a child who has been subjected to neglect.
- 3003 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation  
3004 officer, without an adjudication of the minor's case under Section 80-6-701, upon the  
3005 consent in writing of:
- 3006 (a) the assigned juvenile probation officer; and  
3007 (b)(i) the minor; or  
3008 (ii) the minor and the minor's parent, guardian, or custodian.
- 3009 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual  
3010 disability or related condition, or developmental immaturity, lacks the ability to:
- 3011 (a) understand the nature of the proceedings against the minor or of the potential  
3012 disposition for the offense charged; or  
3013 (b) consult with counsel and participate in the proceedings against the minor with a  
3014 reasonable degree of rational understanding.
- 3015 (62)(a) "Parent" means, except as provided in Section 80-3-302, an individual with a  
3016 parent-child relationship to a minor under Section 81-5-201.  
3017 (b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.
- 3018 (63) "Parole" means a conditional release of a juvenile offender from residency in secure  
3019 care to live outside of secure care under the supervision of the Division of Juvenile  
3020 Justice and Youth Services, or another person designated by the Division of Juvenile  
3021 Justice and Youth Services.
- 3022 (64) "Physical abuse" means abuse that results in physical injury or damage to a child.

(65)(a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(66) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(67) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(68) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(69) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

- 3057 (70)(a) "Related condition" means a condition that:
- 3058 (i) is found to be closely related to intellectual disability;
- 3059 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 3060 similar to that of an intellectually disabled individual;
- 3061 (iii) is likely to continue indefinitely; and
- 3062 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 3063 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 3064 serious emotional or behavioral disturbance.
- 3065 (71)(a) "Residual parental rights and duties" means the rights and duties remaining with
- 3066 a parent after legal custody or guardianship, or both, have been vested in another
- 3067 person or agency, including:
- 3068 (i) the responsibility for support;
- 3069 (ii) the right to consent to adoption;
- 3070 (iii) the right to determine the child's religious affiliation; and
- 3071 (iv) the right to reasonable parent-time unless restricted by the court.
- 3072 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
- 3073 right to consent to:
- 3074 (i) marriage;
- 3075 (ii) enlistment; and
- 3076 (iii) major medical, surgical, or psychiatric treatment.
- 3077 (72) "Runaway" means a child, other than an emancipated child, who willfully leaves the
- 3078 home of the child's parent or guardian, or the lawfully prescribed residence of the child,
- 3079 without permission.
- 3080 (73) "Secure care" means placement of a minor, who is committed to the Division of
- 3081 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
- 3082 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
- 3083 supervision and confinement of the minor.
- 3084 (74) "Secure care facility" means a facility, established in accordance with Section 80-5-503,
- 3085 for juvenile offenders in secure care.
- 3086 (75) "Secure detention" means temporary care of a minor who requires secure custody in a
- 3087 physically restricting facility operated by, or under contract with, the Division of
- 3088 Juvenile Justice and Youth Services:
- 3089 (a) before disposition of an offense that is alleged to have been committed by the minor;
- 3090 or

- 3091 (b) under Section 80-6-704.
- 3092 (76) "Serious youth offender" means an individual who:
- 3093 (a) is at least 14 years old, but under 25 years old;
- 3094 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
- 3095 of the juvenile court was extended over the individual's case until the individual was
- 3096 25 years old in accordance with Section 80-6-605; and
- 3097 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
- 3098 Services for secure care under Sections 80-6-703 and 80-6-705.
- 3099 (77) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- 3100 (78) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
- 3101 child.
- 3102 (79)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection
- 3103 (79)(b):
- 3104 (i) if committed by an individual who is 18 years old or older:
- 3105 (A) chronic abuse;
- 3106 (B) severe abuse;
- 3107 (C) sexual abuse;
- 3108 (D) sexual exploitation;
- 3109 (E) abandonment;
- 3110 (F) chronic neglect; or
- 3111 (G) severe neglect; or
- 3112 (ii) if committed by an individual who is under 18 years old:
- 3113 (A) causing serious injury, as defined in Subsection 76-5-109(1), to another child
- 3114 that indicates a significant risk to other children; or
- 3115 (B) sexual behavior with or upon another child that indicates a significant risk to
- 3116 other children.
- 3117 (b) "Severe type of child abuse or neglect" does not include:
- 3118 (i) the use of reasonable and necessary physical restraint by an educator in
- 3119 accordance with Section 53G-8-301 or Section 76-2-401;
- 3120 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 3121 use of reasonable and necessary physical restraint or force in self-defense or
- 3122 otherwise appropriate to the circumstances to obtain possession of a weapon or
- 3123 other dangerous object in the possession or under the control of a child or to
- 3124 protect the child or another individual from physical injury; or

- 3125 (iii) a health care decision made for a child by a child's parent or guardian, unless,  
3126 subject to Subsection (79)(c), the state or other party to the proceeding shows, by  
3127 clear and convincing evidence, that the health care decision is not reasonable and  
3128 informed.
- 3129 (c) Subsection (79)(b)(iii) does not prohibit a parent or guardian from exercising the  
3130 right to obtain a second health care opinion.
- 3131 (80)(a) "Sexual abuse" means:
- 3132 (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
3133 adult directed towards a child;
- 3134 (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
3135 committed by a child towards another child if:
- 3136 (A) there is an indication of force or coercion;
- 3137 (B) the children are related, as described in Subsection (40), including siblings by  
3138 marriage while the marriage exists or by adoption; or
- 3139 (C) the act or attempted act constitutes unlawful sexual activity as described in  
3140 Section 76-5-401.3.
- 3141 (iii) engaging in any conduct with a child that would constitute an offense under any  
3142 of the following, regardless of whether the individual who engages in the conduct  
3143 is actually charged with, or convicted of, the offense:
- 3144 (A) Title 76, Chapter 5, Part 4, Sexual Offenses;
- 3145 (B) child bigamy, Section 76-7-101.5;
- 3146 (C) incest, Section 76-7-102;
- 3147 (D) voyeurism, Section 76-12-306;
- 3148 (E) recorded or photographed voyeurism, Section 76-12-307; or
- 3149 (F) distribution of images obtained through voyeurism, Section 76-12-308; or
- 3150 (iv) subjecting a child to participate in or threatening to subject a child to participate  
3151 in a sexual relationship, regardless of whether that sexual relationship is part of a  
3152 legal or cultural marriage.
- 3153 (b) "Sexual abuse" does not include engaging in any conduct with a child that would  
3154 constitute an offense described in:
- 3155 (i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator  
3156 of the offense is a minor; or
- 3157 (ii) Section 76-5-417, enticing a minor.
- 3158 (81) "Sexual exploitation" means knowingly:

- 3159 (a) employing, using, persuading, inducing, enticing, or coercing any child to:  
3160 (i) pose in the nude for the purpose of sexual arousal of any individual; or  
3161 (ii) engage in any sexual or simulated sexual conduct for the purpose of  
3162 photographing, filming, recording, or displaying in any way the sexual or  
3163 simulated sexual conduct;
- 3164 (b) displaying, distributing, possessing for the purpose of distribution, or selling material  
3165 depicting a child:  
3166 (i) in the nude, for the purpose of sexual arousal of any individual; or  
3167 (ii) engaging in sexual or simulated sexual conduct; or
- 3168 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,  
3169 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual  
3170 exploitation of a minor, regardless of whether the individual who engages in the  
3171 conduct is actually charged with, or convicted of, the offense.
- 3172 (82) "Shelter" means the temporary care of a child in a physically unrestricted facility  
3173 pending a disposition or transfer to another jurisdiction.
- 3174 (83) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 3175 (84) "Significant risk" means a risk of harm that is determined to be significant in  
3176 accordance with risk assessment tools and rules established by the Division of Child and  
3177 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative  
3178 Rulemaking Act, that focus on:
- 3179 (a) age;  
3180 (b) social factors;  
3181 (c) emotional factors;  
3182 (d) sexual factors;  
3183 (e) intellectual factors;  
3184 (f) family risk factors; and  
3185 (g) other related considerations.
- 3186 (85) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 3187 (86) "Status offense" means an offense that would not be an offense but for the age of the  
3188 offender.
- 3189 (87) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or  
3190 excessive use of alcohol or other drugs or substances.
- 3191 (88) "Substantiated" or "substantiation" means a judicial finding based on a preponderance  
3192 of the evidence, and separate consideration of each allegation made or identified in the

case, that abuse, neglect, or dependency occurred.

(89) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(90) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(91) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(92) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(93) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(94) "Torture" means:

(a) the infliction of a serious injury upon a child in an exceptionally cruel or exceptionally depraved manner that causes the child to experience extreme physical or psychological pain or anguish; or

(b) the infliction of a serious injury, or more than one serious injury, upon a child as part of a course of conduct or over a prolonged period of time.

(95) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (95)(a) and (b).

(96) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(97) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(98) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(99) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(100) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 40. Section **80-2-301** is amended to read:

**80-2-301 . Division responsibilities.**

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;



- 3261 (iii) reunification services to families whose children are in substitute care in  
3262 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a  
3263 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;  
3264 (iv) protective supervision of a family, upon court order, in an effort to eliminate  
3265 abuse or neglect of a child in that family;  
3266 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective  
3267 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;  
3268 (vi) domestic violence services, in accordance with the requirements of federal law;  
3269 (vii) protective services to victims of domestic violence and the victims' children, in  
3270 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a  
3271 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;  
3272 (viii) substitute care for dependent, abused, and neglected children;  
3273 (ix) services for minors who are victims of human trafficking or human smuggling,  
3274 as described in Sections 76-5-308 through ~~[76-5-310.1]~~ 76-5-317, or who have  
3275 engaged in prostitution or sexual solicitation, as defined in Sections 76-5d-202  
3276 and 76-5d-209; and  
3277 (x) training for staff and providers involved in the administration and delivery of  
3278 services offered by the division in accordance with this chapter and Chapter 2a,  
3279 Removal and Protective Custody of a Child;  
3280 (c) establish standards for all:  
3281 (i) contract providers of out-of-home care for minors and families;  
3282 (ii) facilities that provide substitute care for dependent, abused, or neglected children  
3283 placed in the custody of the division; and  
3284 (iii) direct or contract providers of domestic violence services described in  
3285 Subsection (2)(b)(vi);  
3286 (d) have authority to:  
3287 (i) contract with a private, nonprofit organization to recruit and train foster care  
3288 families and child welfare volunteers in accordance with Section 80-2-405;  
3289 (ii) approve facilities that meet the standards established under Subsection (2)(c) to  
3290 provide substitute care for dependent, abused, or neglected children placed in the  
3291 custody of the division; and  
3292 (iii) approve an individual to provide short-term relief care to a foster parent if the  
3293 individual:  
3294 (A) provides the relief care for less than six consecutive nights;

- 3295 (B) provides the relief care in the short-term relief care provider's home;  
3296 (C) is direct access qualified, as that term is defined in Section 26B-2-120; and  
3297 (D) is an immediate family member or relative, as those terms are defined in  
3298 Section 80-3-102, of the foster parent;
- 3299 (e) cooperate with the federal government in the administration of child welfare and  
3300 domestic violence programs and other human service activities assigned by the  
3301 department;
- 3302 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws  
3303 enacted for the protection of abused, neglected, or dependent children, in accordance  
3304 with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless  
3305 administration is expressly vested in another division or department of the state;
- 3306 (g) cooperate with the Workforce Development Division within the Department of  
3307 Workforce Services in meeting the social and economic needs of an individual who is  
3308 eligible for public assistance;
- 3309 (h) compile relevant information, statistics, and reports on child and family service  
3310 matters in the state;
- 3311 (i) prepare and submit to the department, the governor, and the Legislature reports of the  
3312 operation and administration of the division in accordance with the requirements of  
3313 Sections 80-2-1102 and 80-2-1103;
- 3314 (j) within appropriations from the Legislature, provide or contract for a variety of  
3315 domestic violence services and treatment methods;
- 3316 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of  
3317 abuse and neglect in accordance with Section 80-2-503;
- 3318 (l) seek reimbursement of funds the division expends on behalf of a child in the  
3319 protective custody, temporary custody, or custody of the division, from the child's  
3320 parent or guardian in accordance with an order for child support under Section  
3321 78A-6-356;
- 3322 (m) ensure regular, periodic publication, including electronic publication, regarding the  
3323 number of children in the custody of the division who:  
3324 (i) have a permanency goal of adoption; or  
3325 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and  
3326 promote adoption of the children;
- 3327 (n) subject to Subsections (5) and (7), refer an individual receiving services from the  
3328 division to the local substance abuse authority or other private or public resource for

- 3329 a court-ordered drug screening test;
- 3330 (o) report before November 30, 2020, and every third year thereafter, to the Social
- 3331 Services Appropriations Subcommittee regarding:
- 3332 (i) the daily reimbursement rate that is provided to licensed foster parents based on
- 3333 level of care;
- 3334 (ii) the amount of money spent on daily reimbursements for licensed foster parents
- 3335 during the previous fiscal year; and
- 3336 (iii) any recommended changes to the division's budget to support the daily
- 3337 reimbursement rates described in Subsection (2)(o)(i);
- 3338 (p) when a division child welfare caseworker identifies a safety concern with the foster
- 3339 home, cooperate with the Office of Licensing and make a recommendation to the
- 3340 Office of Licensing concerning whether the foster home's license should be placed on
- 3341 conditions, suspended, or revoked; and
- 3342 (q) perform other duties and functions required by law.
- 3343 (3)(a) The division may provide, directly or through contract, services that include the
- 3344 following:
- 3345 (i) adoptions;
- 3346 (ii) day-care services;
- 3347 (iii) out-of-home placements for minors;
- 3348 (iv) health-related services;
- 3349 (v) homemaking services;
- 3350 (vi) home management services;
- 3351 (vii) protective services for minors;
- 3352 (viii) transportation services; or
- 3353 (ix) domestic violence services.
- 3354 (b) The division shall monitor services provided directly by the division or through
- 3355 contract to ensure compliance with applicable law and rules made in accordance with
- 3356 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 3357 (c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
- 3358 through a private contract, the division shall post the name of the service provider
- 3359 on the division's website.
- 3360 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.
- 3361 (4)(a) The division may:
- 3362 (i) receive gifts, grants, devises, and donations;

- 3363 (ii) encourage merchants and service providers to:
- 3364 (A) donate goods or services; or
- 3365 (B) provide goods or services at a nominal price or below cost;
- 3366 (iii) distribute goods to applicants or consumers of division services free or for a
- 3367 nominal charge and tax free; and
- 3368 (iv) appeal to the public for funds to meet needs of applicants or consumers of
- 3369 division services that are not otherwise provided by law, including Sub-for-Santa
- 3370 programs, recreational programs for minors, and requests for household
- 3371 appliances and home repairs.
- 3372 (b) If requested by the donor and subject to state and federal law, the division shall use a
- 3373 gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for
- 3374 the purpose requested by the donor.
- 3375 (5)(a) In carrying out the requirements of Subsection (2)(f), the division shall:
- 3376 (i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth
- 3377 Services, and with all public and private licensed child welfare agencies and
- 3378 institutions to develop and administer a broad range of services and support;
- 3379 (ii) take the initiative in all matters involving the protection of abused or neglected
- 3380 children, if adequate provisions have not been made or are not likely to be made;
- 3381 and
- 3382 (iii) make expenditures necessary for the care and protection of the children described
- 3383 in Subsection (5)(a)(ii), within the division's budget.
- 3384 (b) If an individual is referred to a local substance abuse authority or other private or
- 3385 public resource for court-ordered drug screening under Subsection (2)(n), the court
- 3386 shall order the individual to pay all costs of the tests unless:
- 3387 (i) the cost of the drug screening is specifically funded or provided for by other
- 3388 federal or state programs;
- 3389 (ii) the individual is a participant in a drug court; or
- 3390 (iii) the court finds that the individual is an indigent individual.
- 3391 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3,
- 3392 Utah Administrative Rulemaking Act, the division is not required to investigate
- 3393 domestic violence in the presence of a child, as described in Section 76-5-114.
- 3394 (7)(a) Except as provided in Subsection (7)(b), the division may not:
- 3395 (i) require a parent who has a child in the custody of the division to pay for some or
- 3396 all of the cost of any drug testing the parent is required to undergo; or

3397 (ii) refer an individual who is receiving services from the division for drug testing by  
3398 means of a hair, fingernail, or saliva test that is administered to detect the presence  
3399 of drugs.

3400 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is  
3401 receiving services from the division for drug testing by means of a saliva test if:

3402 (i) the individual consents to drug testing by means of a saliva test; or

3403 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,  
3404 orders the individual to complete drug testing by means of a saliva test.

3405 Section 41. Section **80-3-406** is amended to read:

3406 **80-3-406 . Permanency plan -- Reunification services.**

3407 (1) If the juvenile court orders continued removal at the dispositional hearing under Section  
3408 80-3-402, and that the minor remain in the custody of the division, the juvenile court  
3409 shall first:

3410 (a) establish a primary permanency plan and a concurrent permanency plan for the minor  
3411 in accordance with this section; and

3412 (b) determine whether, in view of the primary permanency plan, reunification services  
3413 are appropriate for the minor and the minor's family under Subsections (5) through (8).

3414 (2)(a) The concurrent permanency plan shall include:

3415 (i) a representative list of the conditions under which the primary permanency plan  
3416 will be abandoned in favor of the concurrent permanency plan; and

3417 (ii) an explanation of the effect of abandoning or modifying the primary permanency  
3418 plan.

3419 (b) In determining the primary permanency plan and concurrent permanency plan, the  
3420 juvenile court shall consider:

3421 (i) the preference for kinship placement over nonkinship placement, including the  
3422 rebuttable presumption described in Subsection 80-3-302(7)(a);

3423 (ii) the potential for a guardianship placement if parental rights are terminated and no  
3424 appropriate adoption placement is available; and

3425 (iii) the use of an individualized permanency plan, only as a last resort.

3426 (3)(a) The juvenile court may amend a minor's primary permanency plan before the  
3427 establishment of a final permanency plan under Section 80-3-409.

3428 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in  
3429 the event that the primary permanency plan is abandoned.

3430 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's

primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

- (i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or
- (ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4)(a) Because of the state's interest in and responsibility to protect and provide

permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

- (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and
- (ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(d) Subject to Subsection (4)(e), the juvenile court may not determine that reunification services should not be provided solely on the basis of a parent's agreement or disagreement with the minor's:

- (i) assertion that the minor's gender identity is different from the minor's biological sex;
- (ii) practice of having or expressing a different gender identity than the child's biological sex; or
- (iii) sexual orientation.

(e) Subsection (4)(d) does not preclude the juvenile court from determining that reunification services should not be provided if the parent's agreement or disagreement with a minor as described in Subsection (4)(d) results in or is related to harm, as that term is defined in Section 80-1-102, to the minor.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

- (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;
- (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such

- 3465 magnitude that the mental illness renders the parent incapable of utilizing  
3466 reunification services;
- 3467 (c) the minor was previously adjudicated as an abused child due to physical abuse,  
3468 sexual abuse, or sexual exploitation, and following the adjudication the child:  
3469 (i) was removed from the custody of the minor's parent;  
3470 (ii) was subsequently returned to the custody of the parent; and  
3471 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual  
3472 exploitation;
- 3473 (d) the parent:  
3474 (i) caused the death of another minor through abuse or neglect;  
3475 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:  
3476 (A) murder or manslaughter of a minor; or  
3477 (B) child abuse homicide;  
3478 (iii) committed sexual abuse against the minor;  
3479 (iv) is a sex offender under Subsection 53-29-202(2)(b); or  
3480 (v)(A) intentionally, knowingly, or recklessly causes the death of another parent  
3481 of the minor;  
3482 (B) is identified by a law enforcement agency as the primary suspect in an  
3483 investigation for intentionally, knowingly, or recklessly causing the death of  
3484 another parent of the minor; or  
3485 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
3486 recklessly causing the death of another parent of the minor;
- 3487 (e) the minor suffered severe abuse by the parent or by any individual known by the  
3488 parent if the parent knew or reasonably should have known that the individual was  
3489 abusing the minor;
- 3490 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent,  
3491 and the juvenile court finds that it would not benefit the minor to pursue reunification  
3492 services with the offending parent;
- 3493 (g) the parent's rights are involuntarily terminated with regard to any other minor;
- 3494 (h) the minor was removed from the minor's home on at least two previous occasions  
3495 and reunification services were offered or provided to the family at those times;
- 3496 (i) the parent has abandoned the minor for a period of six months or longer;
- 3497 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a  
3498 location where the parent knew or should have known that a clandestine laboratory

- 3499 operation was located;
- 3500 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's
- 3501 birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder,
- 3502 or was exposed to an illegal or prescription drug that was abused by the minor's
- 3503 mother while the minor was in utero, if the minor was taken into division custody for
- 3504 that reason, unless the mother agrees to enroll in, is currently enrolled in, or has
- 3505 recently and successfully completed a substance use disorder treatment program
- 3506 approved by the department; or
- 3507 (l) subject to Subsection (4)(d), the parent has subjected the minor to aggravated
- 3508 circumstances, including:
- 3509 (i) a severe type of child abuse or neglect;
- 3510 (ii) torture; or
- 3511 (iii) human trafficking of a child as described in Section 76-5-308.5 or 76-5-308.6.
- 3512 (6)(a) The juvenile court shall base the finding under Subsection (5)(b) on competent
- 3513 evidence from at least two medical or mental health professionals, who are not
- 3514 associates, establishing that, even with the provision of services, the parent is not
- 3515 likely to be capable of adequately caring for the minor within 12 months after the day
- 3516 on which the juvenile court finding is made.
- 3517 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile
- 3518 court finds, under the circumstances of the case, that the substance use disorder
- 3519 treatment described in Subsection (5)(k) is not warranted.
- 3520 (7) In determining whether reunification services are appropriate, the juvenile court shall
- 3521 take into consideration:
- 3522 (a) failure of the parent to respond to previous services or comply with a previous child
- 3523 and family plan;
- 3524 (b) the fact that the minor was abused while the parent was under the influence of drugs
- 3525 or alcohol;
- 3526 (c) any history of violent behavior directed at the minor or an immediate family member;
- 3527 (d) the circumstances under which the parent's rights were voluntarily terminated with
- 3528 regard to any other minor;
- 3529 (e) whether a parent continues to live with an individual who abused the minor;
- 3530 (f) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
- 3531 (g) testimony by a competent professional that the parent's behavior is unlikely to be
- 3532 successful; and



- 3533 (h) whether the parent has expressed an interest in reunification with the minor.
- 3534 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification
- 3535 services, a permanency hearing shall be conducted within 30 days in accordance with
- 3536 Section 80-3-409.
- 3537 (9)(a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that
- 3538 reunification services are appropriate for the minor and the minor's family, the
- 3539 juvenile court shall provide for reasonable parent-time with the parent or parents
- 3540 from whose custody the minor was removed, unless parent-time is not in the best
- 3541 interest of the minor.
- 3542 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a
- 3543 finding that it is necessary to deny parent-time in order to:
- 3544 (i) protect the physical safety of the minor;
- 3545 (ii) protect the life of the minor; or
- 3546 (iii) prevent the minor from being traumatized by contact with the parent due to the
- 3547 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 3548 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based
- 3549 solely on a parent's failure to:
- 3550 (i) prove that the parent has not used legal or illegal substances; or
- 3551 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile
- 3552 court.
- 3553 (d) Parent-time shall be under the least restrictive conditions necessary to:
- 3554 (i) protect the physical safety of the child; or
- 3555 (ii) prevent the child from being traumatized by contact with the parent due to the
- 3556 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 3557 (e)(i) The division or the person designated by the division or a court to supervise a
- 3558 parent-time session may deny parent-time for the session if the division or the
- 3559 supervising person determines that, based on the parent's condition, it is necessary
- 3560 to deny parent-time to:
- 3561 (A) protect the physical safety of the child;
- 3562 (B) protect the life of the child; or
- 3563 (C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized
- 3564 by contact with the parent.
- 3565 (ii) In determining whether the condition of the parent described in Subsection
- 3566 (9)(e)(i) will traumatize a child, the division or the person supervising the

parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(10)(a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12)(a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

- (13)(a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).
- (b) This section does not entitle any parent to an entire 12 months of reunification services.
- (14)(a) If reunification services are ordered, the juvenile court may terminate those services at any time.
- (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:
- (i) place the minor in accordance with the final permanency plan; and
  - (ii) complete whatever steps are necessary to finalize the permanent placement of the minor.
- (15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.
- (16)(a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.
- (b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.
- (c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.
- (17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:
- (a) the juvenile court shall terminate reunification services; and
  - (b) the division shall petition the juvenile court for termination of parental rights.
- (18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.
- (19)(a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home

placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20)(a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 42. Section **81-9-402** is amended to read:

**81-9-402 . Custody and visitation for individuals other than a parent -- Venue.**

(1)(a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of a minor child of the parent.

(b) There is a rebuttable presumption that a parent's decisions are in the minor child's best interests.

(2) The presumption in Subsection (1) is rebutted and a court may grant custodial or visitation rights to an individual other than a parent if the court finds, by clear and convincing evidence, that the individual seeking custodial or visitation rights has established that:

(a) the individual has intentionally assumed the role and obligations of a parent;

- (b) the individual and the minor child have formed a substantial emotional bond and created a parent-child type relationship;
- (c) the individual substantially contributed emotionally or financially to the minor child's well being;
- (d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;
- (e) the continuation of the relationship between the individual and the minor child is in the minor child's best interest;
- (f) the loss or cessation of the relationship between the individual and the minor child would substantially harm the minor child; and
- (g) the parent:
- (i) is absent as of the time of filing of the petition;
  - (ii) does not have the ability to exercise primary physical custody of the minor child as of the time of filing of the petition; or
  - (iii) has abused or neglected the minor child, or that another court has found that the parent has abused or neglected the minor child.
- (3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350, an individual shall file a verified petition, or a petition supported by an affidavit, for custodial or visitation rights to the minor child in the juvenile court if a matter is pending in the juvenile court, or in the district court in the county where the minor child:
- (a) currently resides; or
  - (b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.
- (4) An individual may file a petition under this section in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a minor child.
- (5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information described in Section 81-11-209.
- (6) An individual may not file a petition under this section against a parent who is actively serving outside the state in any branch of the military.
- (7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the Utah Rules of Civil Procedure on all of the following:
- (a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

- 3703 (b) any individual who has court-ordered custody or visitation rights;  
 3704 (c) the minor child's guardian;  
 3705 (d) the guardian ad litem, if one has been appointed;  
 3706 (e) an individual or agency that has physical custody of the minor child or that claims to  
 3707 have custody or visitation rights; and  
 3708 (f) any other individual or agency that has previously appeared in any action regarding  
 3709 custody of or visitation with the minor child.
- 3710 (8) The court may order a custody evaluation to be conducted in any proceeding brought  
 3711 under this section.
- 3712 (9) The court may enter temporary orders in a proceeding brought under this section  
 3713 pending the entry of final orders.
- 3714 (10) Except as provided in Subsection (11), a court may not grant custody of a minor child  
 3715 under this section to an individual:
- 3716 (a) who is not the parent of the minor child; and  
 3717 (b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no  
 3718 contest to a felony or attempted felony involving conduct that constitutes any of the  
 3719 following:
- 3720 (i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4,  
 3721 and 76-5-114;
- 3722 (ii) child abuse homicide, as described in Section 76-5-208;
- 3723 (iii) child kidnapping, as described in Section 76-5-301.1;
- 3724 (iv) human trafficking of a child for labor, as described in Section 76-5-308.5;
- 3725 (v) human trafficking of a child for commercial sexual exploitation, as described in  
 3726 Section 76-5-308.6;
- 3727 (vi) patronizing a child victim of human labor trafficking, as described in Section  
 3728 76-5-314;
- 3729 [~~(v)~~] (vii) sexual abuse of a minor, as described in Section 76-5-401.1;
- 3730 [~~(vi)~~] (viii) rape of a child, as described in Section 76-5-402.1;
- 3731 [~~(vii)~~] (ix) object rape of a child, as described in Section 76-5-402.3;
- 3732 [~~(viii)~~] (x) sodomy on a child, as described in Section 76-5-403.1;
- 3733 [~~(ix)~~] (xi) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated  
 3734 sexual abuse of a child, as described in Section 76-5-404.3;
- 3735 [~~(x)~~] (xii) sexual exploitation of a minor, as described in Section 76-5b-201;
- 3736 [~~(xi)~~] (xiii) aggravated sexual exploitation of a minor, as described in Section

76-5b-201.1; or

~~[(xii)]~~ (xiv) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11)(a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a minor child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the minor child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:

(A) the minor child's age;

(B) the minor child's gender;

(C) the minor child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a minor child who is 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the minor child is of long duration;

(B) that an emotional bond exists with the minor child; and

(C) that custody by the individual who has committed the disqualifying offense

ensures the best interests of the minor child are met;

(vii)(A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the minor child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the minor child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the minor child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 43. Section **81-13-203** is amended to read:

**81-13-203 . Who may adopt -- Adoption of a minor child.**

(1) An adult may adopt a minor child in accordance with this section and this chapter.

(2) Except as otherwise provided in this section and subject to the placement requirements described in Section 81-13-403, a minor child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) an adult who is not married.

(3) If an adult is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state, the adult may not adopt a minor child unless the individual



is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

- (4) A married adult who is lawfully separated from the married adult's spouse may not adopt a minor child without the consent of the married adult's spouse if the spouse is capable of giving consent.
- (5) An adult may not adopt a minor child unless:
- (a) the adult is at least 10 years older than the minor child; or
  - (b) at least one adult of a married couple is at least 10 years older than the minor child if a married couple is adopting the minor child.
- (6) Except as provided in Subsection (7), an adult may not adopt a minor child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes:
- (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) child abuse homicide, as described in Section 76-5-208;
  - (g) child kidnapping, as described in Section 76-5-301.1;
  - (h) human trafficking of a child for labor, as described in Section 76-5-308.5;
  - (i) human trafficking of a child for commercial sexual exploitation, as described in Section 76-5-308.6;
  - (j) patronizing a child victim of human labor trafficking, as described in Section 76-5-314;
  - ~~(k)~~ (k) sexual abuse of a minor, as described in Section 76-5-401.1;
  - ~~(l)~~ (l) rape of a child, as described in Section 76-5-402.1;
  - ~~(m)~~ (m) object rape of a child, as described in Section 76-5-402.3;
  - ~~(n)~~ (n) sodomy on a child, as described in Section 76-5-403.1;
  - ~~(o)~~ (o) sexual abuse of a child, as described in Section 76-5-404.1;
  - ~~(p)~~ (p) aggravated sexual abuse of a child, as described in Section 76-5-404.3;
  - ~~(q)~~ (q) sexual exploitation of a minor, as described in Section 76-5b-201;
  - ~~(r)~~ (r) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1;
- or

3839       ~~[(q)]~~ (s) an offense in another state that, if committed in this state, would constitute an  
3840       offense described in this Subsection (6).

3841       (7)(a) As used in this Subsection (7), "disqualifying offense" means an offense listed in  
3842       Subsection (6) that prevents a court from considering an adult for adoption of a minor  
3843       child except as provided in this Subsection (7).

3844       (b) An adult described in Subsection (6) may only be considered for adoption of a minor  
3845       child if the following criteria are met by clear and convincing evidence:

- 3846       (i) at least 10 years have elapsed from the day on which the adult is successfully  
3847       released from prison, jail, parole, or probation related to a disqualifying offense;  
3848       (ii) during the 10 years before the day on which the adult files a petition with the  
3849       court seeking adoption, the adult has not been convicted, pleaded guilty, or  
3850       pleaded no contest to an offense greater than an infraction or traffic violation that  
3851       would likely impact the health, safety, or well-being of the minor child;  
3852       (iii) the adult can provide evidence of successful treatment or rehabilitation directly  
3853       related to the disqualifying offense;  
3854       (iv) the court determines that the risk related to the disqualifying offense is unlikely  
3855       to cause harm, as defined in Section 80-1-102, or potential harm to the minor child  
3856       currently or at any time in the future when considering all of the following:  
3857       (A) the minor child's age;  
3858       (B) the minor child's gender;  
3859       (C) the minor child's development;  
3860       (D) the nature and seriousness of the disqualifying offense;  
3861       (E) the preferences of a minor child who is 12 years old or older;  
3862       (F) any available assessments, including custody evaluations, home studies,  
3863       pre-placement adoptive evaluations, parenting assessments, psychological or  
3864       mental health assessments, and bonding assessments; and  
3865       (G) any other relevant information;  
3866       (v) the adult can provide evidence of all of the following:  
3867       (A) the relationship with the minor child is of long duration;  
3868       (B) that an emotional bond exists with the minor child; and  
3869       (C) that adoption by the individual who has committed the disqualifying offense  
3870       ensures the best interests of the minor child are met; and  
3871       (vi) the adoption is by:  
3872       (A) a stepparent whose spouse is the adoptee's parent and consents to the

adoption; or

(B) subject to Subsection (7)(d), a relative of the minor child, as defined in Section 80-3-102, and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The adult with the disqualifying offense bears the burden of proof regarding why adoption with that adult is in the best interest of the minor child over another responsible relative or equally situated adult who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the adult who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(8) Subsections (6) and (7) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 44. **Repealer.**

This bill repeals:

Section **76-5-307, Definitions.**

Section 45. **Effective Date.**

This bill takes effect on May 6, 2026.