

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

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

House Sponsor: Ryan D. Wilcox

2 **LONG TITLE**3 **Committee Note:**

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

5 Legislative Vote: 11 voting for 0 voting against 5 absent

6 **General Description:**7 This bill concerns human labor trafficking, human trafficking for sexual exploitation, and
8 human smuggling.9 **Highlighted Provisions:**

10 This bill:

11 ▶ defines terms;

12 ▶ removes the applicability of statutory defenses to offenses concerning human trafficking
13 or human smuggling;14 ▶ repeals a freestanding definition section and incorporates the repealed section's definitions
15 into the human smuggling offenses in which the terms are referenced;16 ▶ amends the following offenses concerning human trafficking, including revising the name
17 and elements of the offense, and, for some offenses, requiring specific conduct for a
18 violation:

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31 • patronizing a victim of human labor trafficking;
32 • patronizing a child victim of human labor trafficking; and
33 • patronizing a vulnerable adult victim of human labor trafficking;
34 ▶ amends the offenses of human smuggling and aggravated human smuggling to
35 incorporate definitions from the repealed freestanding definitions section;
36 ▶ changes cross references in other statutes referencing human trafficking offenses to
37 include citations to additional trafficking and patronizing offenses; and
38 ▶ makes technical and conforming changes.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 **AMENDS:**

45 **26B-2-120**, as last amended by Laws of Utah 2025, Chapter 63
46 **53-10-403**, as last amended by Laws of Utah 2025, Chapters 173, 208 and 291
47 **53-29-202**, as enacted by Laws of Utah 2025, Chapter 291
48 **53-29-203**, as enacted by Laws of Utah 2025, Chapter 291
49 **53-29-205**, as enacted by Laws of Utah 2025, Chapter 291
50 **53G-6-603**, as last amended by Laws of Utah 2024, Chapters 113, 381
51 **76-1-301**, as last amended by Laws of Utah 2025, Chapters 173, 174
52 **76-2-304.5**, as last amended by Laws of Utah 2025, Chapters 173, 174
53 **76-3-203.19**, as enacted by Laws of Utah 2025, Chapter 185
54 **76-3-203.20**, as enacted by Laws of Utah 2025, Chapter 519
55 **76-5-305**, as last amended by Laws of Utah 2022, Chapter 181
56 **76-5-308**, as last amended by Laws of Utah 2022, Chapter 181
57 **76-5-308.1**, as last amended by Laws of Utah 2025, Chapter 262
58 **76-5-308.5**, as last amended by Laws of Utah 2025, Chapter 262
59 **76-5-309**, as last amended by Laws of Utah 2025, Chapter 262
60 **76-5-310**, as last amended by Laws of Utah 2025, Chapter 262
61 **76-5-311**, as last amended by Laws of Utah 2025, Chapter 262
62 **76-5-417**, as renumbered and amended by Laws of Utah 2025, Chapter 173
63 **76-5d-106**, as renumbered and amended by Laws of Utah 2025, Chapters 173, 174
64 **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

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;

133 (C) a parent of a person receiving services from the Division of Services for
134 People with Disabilities, if the parent provides direct care to and resides with
135 the person, including if the parent provides direct care to and resides with the
136 person pursuant to a court order; or

137 (D) an individual or a department contractor who provides services in an adults
138 only substance use disorder program, as defined by rule adopted by the
139 Department of Health and Human Services in accordance with Title 63G,
140 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
141 director or a member, as defined by Section 26B-2-105, of the program.

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

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

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

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

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

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

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

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

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

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

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

- 166 (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);

201 (d) if an applicant resided outside of the United States and its territories during the five
202 years immediately preceding the day on which the information described in
203 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
204 whether the applicant was convicted of a crime during the time that the applicant
205 resided outside of the United States or its territories; and
206 (e) an application showing an applicant's association with a certification, contract, or a
207 licensee with the department, for the purpose of the office tracking the direct access
208 qualified status of the applicant, which expires 180 days after the date on which the
209 applicant is no longer associated with a certification, contract, or a licensee with the
210 department.

211 (3) The office:

212 (a) shall perform the following duties as part of a background check of an applicant
213 before the office grants or denies direct access qualified status to an applicant:
214 (i) check state and regional criminal background databases for the applicant's
215 criminal history by:
216 (A) submitting personal identifying information to the bureau for a search; or
217 (B) using the applicant's personal identifying information to search state and
218 regional criminal background databases as authorized under Section 53-10-108;
219 (ii) submit the applicant's personal identifying information and fingerprints to the
220 bureau for a criminal history search of applicable national criminal background
221 databases;
222 (iii) search the Division of Child and Family Services' Licensing Information System
223 described in Section 80-2-1002;
224 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title
225 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national
226 sex offender registry for an applicant 18 years old or older;
227 (v) search the Division of Child and Family Services' Management Information
228 System in Section 80-2-1001, if the applicant is:
229 (A) a prospective foster or adoptive parent;
230 (B) an employee of a congregate care program; or
231 (C) an adult who lives in a foster home.
232 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
233 or exploitation database described in Section 26B-6-210;
234 (vii) search the juvenile court records for substantiated findings of severe child abuse

or neglect described in Section 80-3-404 or 80-3-504; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

- (b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) for an annual renewal; or
 - (ii) when the office determines that reasonable cause exists;
- (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;
- (d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;
- (e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;
- (f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);
- (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:
 - (i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and
 - (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and
- (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

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.

- (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).
- (c) Subject to Subsection (5)(d), the office shall deny direct access qualified status to an applicant who:
 - (i) a court order prohibits from having direct access to a child or vulnerable adult; or
 - (ii) is an applicant for a congregate care program and:
 - (A) is subject to an open investigation for a non-criminal finding; or
 - (B) has a supported non-criminal finding, excluding a supported finding for dependency, as defined in Section 80-1-102, within three years from the date on which the office conducts the background check.
- (d)(i) Subsection (5)(c) does not apply retrospectively for congregate care program employees who have an approved background screening on or before July 1, 2025; or
 - (ii) notwithstanding Subsection (5)(c)(ii)(A), the division may grant temporary direct access qualified status to an applicant subject to a condition that the applicant is directly supervised at all times.
- (6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:
 - (a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);
 - (b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
 - (c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;
 - (d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);
 - (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after

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

26B-6-210, with criminal or non-criminal findings after the date of the listing;

- (p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- (q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7)(a) The comprehensive review shall include an examination of:

- (i) the date of the offense or incident;
- (ii) the nature and seriousness of the offense or incident;
- (iii) the circumstances under which the offense or incident occurred;
- (iv) the age of the perpetrator when the offense or incident occurred;
- (v) whether the offense or incident was an isolated or repeated incident;
- (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:
 - (A) actual or threatened, nonaccidental physical, mental, or financial harm;
 - (B) sexual abuse;
 - (C) sexual exploitation; or
 - (D) negligent treatment;
- (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;
- (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and
- (ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, and listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied 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

473 subsequent application in accordance with this section.

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

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

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

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

482 (i) the applicant is seeking a position:

483 (A) as a peer support provider;

484 (B) as a mental health professional; or

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

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

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

494 (b) As federally required, the office shall:

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

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

506 (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;

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

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

[T] V) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

[U] [W] aggravated arson, as described in Section 76-6-103;

[] () aggravated burglary, as described in Section 76-6-203;

[~~W~~] (Y) aggravated robbery, as described in Section 76-6-302;

[] () incest, as described in Section 76-7-102; or

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

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

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

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

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

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

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances

Act;

(vii) an e

Precursor Act; or

i) an offense desc

In addition to the circumstances described in Subsection (6), the office shall con-

a comprehensive review of an applicant's background check under this section if the applicant:

(1) has an offense described in Subsection (5)(a);

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

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

575 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
576 neglect, or exploitation database described in Section 26B-2-210;
577 (v) has a substantiated finding of severe child abuse or neglect under Section
578 80-3-404 or 80-3-504; or
579 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
580 substantiated or supported finding of a severe type of child abuse or neglect, as
581 defined in Section 80-1-102.

582 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
583 office may make rules, consistent with this part, to:
584 (a) establish procedures for, and information to be examined in, the comprehensive
585 review described in Subsections (6), (7), and (13); and
586 (b) determine whether to consider an offense or incident that occurred while an
587 individual was in the custody of the Division of Child and Family Services or the
588 Division of Juvenile Justice and Youth Services for purposes of granting or denying
589 direct access qualified status to an applicant.

590 Section 2. Section **53-10-403** is amended to read:

591 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**

592 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
593 (a) a person who has pled guilty to or has been convicted of any of the offenses under
594 Subsection (2)(a) or (b) on or after July 1, 2002;
595 (b) a person who has pled guilty to or has been convicted by any other state or by the
596 United States government of an offense which if committed in this state would be
597 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after
598 July 1, 2003;
599 (c) a person who has been booked on or after January 1, 2011, through December 31,
600 2014, for any offense under Subsection (2)(c);
601 (d) a person who has been booked:
602 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May
603 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
604 felony offense; or
605 (ii) on or after January 1, 2015, for any felony offense; or
606 (e) a minor:
607 (i)(A) who is adjudicated by the juvenile court for an offense described in
608 Subsection (2) that is within the jurisdiction of the juvenile court on or after

July 1, 2002; or

(B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice and Youth Services for the offense on or after July 1, 2002; and

(ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c)(i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection

$\circ \delta^{-1} \circ \delta(Z)(g)$,

(v) a felony violation of enticing a minor, Section 70-5-417,

(vii) a felony violation of propelling a substance or object at a correctional officer, peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) automobile homicide, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310 or 76-5-310.2, and aggravated human smuggling, Section [76-5-310-1] 76-5-317;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17[-] year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Section 76-8-309.3;

(xv) a felony violation of threatened or attempted assault on an elected official,

Section 76-8-313;

(xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

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

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

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

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

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

76-5-802;

(xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-15-302;

(xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-15-303;

(xxvii) possession of a concealed firearm in the commission of a violent felony,
Subsection 76-11-202(3)(c);

(xxviii) assault with the intent to commit bus hijacking with a dangerous weapon as described in Subsection 76-9-1503(3)(b);

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

(xxx) a felony violation of failure to register as a sex or kidnap offender, Section 53-29-305;

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

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

678 Section 3. Section **53-29-202** is amended to read:

679 **53-29-202 . Registrable offenses -- Status as a sex offender, kidnap offender, and**
680 **child abuse offender established.**

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

683 (a) has been convicted in this state of:

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

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

686 (iii) a felony or class A misdemeanor violation of enticing a minor under Section
687 76-5-417;

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

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

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

692 (vii) aggravated human trafficking for commercial sexual exploitation under Section [
693 ~~76-5-310] 76-5-310.2;~~

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

696 (ix) unlawful sexual activity with a minor under Section 76-5-401, except as provided
697 in Subsection 76-5-401(3)(b) or (c);

698 (x) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense
699 unless the individual was younger than 21 years old at the time of the offense then
700 on the individual's second offense;

701 (xi) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

702 (xii) rape under Section 76-5-402;

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

704 (xiv) object rape under Section 76-5-402.2;

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

706 (xvi) a felony violation of forcible sodomy under Section 76-5-403;

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

708 (xviii) forcible sexual abuse under Section 76-5-404;

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

710 (xx) aggravated sexual abuse of a child under Section 76-5-404.3;

711 (xxi) aggravated sexual assault under Section 76-5-405;
712 (xxii) custodial sexual relations under Section 76-5-412, if the victim in custody is
713 younger than 18 years old and the offense is committed on or after May 10, 2011;
714 (xxiii) sexual exploitation of a minor under Section 76-5b-201;
715 (xxiv) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
716 (xxv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
717 (xxvi) incest under Section 76-7-102;
718 (xxvii) lewdness under Section 76-5-419, if the individual has been convicted of the
719 offense four or more times;
720 (xxviii) sexual battery under Section 76-5-418, if the individual has been convicted of
721 the offense four or more times;
722 (xxix) any combination of convictions of lewdness under Section 76-5-419, and of
723 sexual battery under Section 76-5-418, that total four or more convictions;
724 (xxx) lewdness involving a child under Section 76-5-420;
725 (xxxi) a felony or class A misdemeanor violation of:
726 (A) voyeurism under Section 76-12-306;
727 (B) recorded or photographed voyeurism under Section 76-12-307; or
728 (C) distribution of images obtained through voyeurism under Section 76-12-308;
729 (xxxii) aggravated exploitation of prostitution under Section 76-5d-208;
730 (xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not
731 the natural parent of the child victim;
732 (xxxiv) child kidnapping under Section 76-5-301.1, if the offender was not the
733 natural parent of the child victim;
734 (xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the
735 natural parent of the child victim;
736 (xxxvi) human trafficking for labor under Section 76-5-308, if the offender was not
737 the natural parent of the child victim;
738 [(xxxvii) human smuggling under Section 76-5-308.3, if the offender was not the
739 natural parent of the child victim;]
740 [(xxxviii) (xxxvii) human trafficking of a child for labor under [Subseetion
741 76-5-308.5(4)(a)] Section 76-5-308.5, if the offender was not the natural parent of
742 the child victim;
743 [(xxxix) (xxxviii) aggravated human trafficking for labor under Section 76-5-310, if
744 the offender was not the natural parent of the child victim;

745 [(xli) aggravated human smuggling under Section 76-5-310.1, if the offender was not
746 the natural parent of the child victim;]

747 [(xlii) (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 (xl) 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 [(xli) (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 [Subsektion 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;

847 (ix) human smuggling under Section 76-5-316, if the offender was not the natural
848 parent of the child victim;

849 (x) aggravated human smuggling under Section 76-5-317;

850 (xi) a felony violation of unlawful sexual activity with a minor under Section
851 76-5-401;

852 (xii) sexual abuse of a minor under Section 76-5-401.1;

853 (xiii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

854 (xiv) forcible sexual abuse under Section 76-5-404;

855 (xv) custodial sexual relations under Section 76-5-412;

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

857 (xvii) sexual extortion under Subsection 76-5b-204(2)(a);

858 (xviii) incest under Section 76-7-102;

859 (xix) four to seven convictions of lewdness under Section 76-5-419;

860 (xx) four to seven convictions of sexual battery under Section 76-5-418;

861 (xxi) any combination of convictions of lewdness under Section 76-5-419, and of
862 sexual battery under Section 76-5-418, that total four to seven convictions;

863 (xxii) lewdness involving a child under Section 76-5-420;

864 (xxiii) a felony or class A misdemeanor violation of:
865 (A) voyeurism under Section 76-12-306;
866 (B) recorded or photographed voyeurism under Section 76-12-307; or
867 (C) distribution of images obtained through voyeurism under Section 76-12-308;

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

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

873 (xxvi) attempting, soliciting, or conspiring to commit:
874 (A) aggravated kidnapping under Section 76-5-302, if the offender was not the
875 natural parent of the child victim;
876 (B) human trafficking for commercial sexual exploitation under Section
877 76-5-308.1, if the offender was not the natural parent of the child victim;
878 (C) human trafficking of a child for commercial sexual exploitation under [
879 ~~Subsektion 76-5-308.5(4)(b)] Section 76-5-308.6~~, if the offender was not the
880 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;

- (ii) the vulnerability of the victim;
- (iii) the physical, mental, psychological, or emotional harm the victim suffered from the offense;
- (iv) whether the offender used fraud or deception to commit the offense;
- (v) if any child sexual abuse material, as that term is defined in Section 76-5b-103, was:
 - (A) distributed to the victim by the offender; or
 - (B) distributed, produced, or possessed by the offender at the time of the offense, that involved force or coercion against a victim depicted in the child sexual abuse material; and
- (vi) any other factor the sentencing court determines is relevant.

(4) Except for an individual who is adjudicated for a registrable offense and is an offender who meets the requirements under Subsection 53-29-202(1)(f), an individual who is under 18 years old and commits a registrable offense after May 3, 2023, is not subject to registration requirements under this chapter unless the offender:

- (a) is charged by criminal information in juvenile court under Section 80-6-503;
- (b) is bound over to district court in accordance with Section 80-6-504; and
- (c) is convicted of a registrable offense.

(5) An offender subject to the 10-year or lifetime registration requirements under Subsection (1) may petition the court for an order of removal from the registry in accordance with Section 53-29-204, 53-29-205, or 53-29-206.

Section 5. Section **53-29-205** is amended to read:

53-29-205 . Ten-year petition for removal from registry -- Eligibility.

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

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

983 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and
984 Parole relating to the offense.

985 (2) An offender who qualifies under Subsection (1) may petition the court under Section
986 53-29-207 for an order of removal from the registry if 10 years have passed after the
987 later of the following events in which the offender entered into the community:

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

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

996 (a) a felony violation of enticing a minor under Section 76-5-417, if the offender enticed
997 the minor to engage in sexual activity that is one of the offenses described in
998 Subsections (3)(b) through (v);

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

1000 (c) child torture under Section 76-5-109.4;

1001 (d) human trafficking for labor under Section 76-5-308;

1002 [~~(e) human smuggling under Section 76-5-308.3;~~]

1003 [~~(f)~~] (e) human trafficking of a child for labor under [~~Subsection 76-5-308.5(4)(a)~~
1004 Section 76-5-308.5;

1005 [~~(g)~~] (f) aggravated human trafficking for labor under Section 76-5-310;

1006 (g) human trafficking of a vulnerable adult for labor under Section 76-5-311;

1007 (h) human smuggling under Section 76-5-316;

1008 [~~(i) aggravated human smuggling under Section [76-5-310.1] 76-5-317;~~]

1009 [~~(i) human trafficking of a vulnerable adult for labor under Section 76-5-311;~~]

1010 (j) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if,
1011 at the time of the offense, the offender is more than 10 years older than the victim;

1012 (k) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
1013 offender is more than 10 years older than the victim;

1014 (l) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the
1015 time of the offense, the offender is more than 15 years older than the victim;

1016 (m) forcible sexual abuse under Section 76-5-404;

1017 (n) custodial sexual relations under Section 76-5-412, if the victim in custody is younger
1018 than 18 years old and the offense is committed on or after May 10, 2011;
1019 (o) sexual exploitation of a vulnerable adult under Section 76-5b-202;
1020 (p) sexual extortion under Subsection 76-5b-204(2)(a);
1021 (q) incest under Section 76-7-102;
1022 (r) four or more convictions of lewdness under Section 76-5-419;
1023 (s) four or more convictions of sexual battery under Section 76-5-418;
1024 (t) any combination of convictions of lewdness under Section 76-5-419, and of sexual
1025 battery under Section 76-5-418, that total four or more convictions;
1026 (u) lewdness involving a child under Section 76-5-420;
1027 (v) a felony violation of:
1028 (i) recorded or photographed voyeurism under Section 76-12-307; or
1029 (ii) distribution of images obtained through voyeurism under Section 76-12-308;
1030 (w) aggravated exploitation of prostitution under Section 76-5d-208, committed on or
1031 before May 9, 2011;
1032 (x) attempting, soliciting, or conspiring to commit an offense listed in Subsections (3)(a)
1033 through (v) if the attempt, solicitation, or conspiracy is a registrable offense;
1034 (y) attempting, soliciting, or conspiring to commit:
1035 (i) human trafficking for commercial sexual exploitation under Section 76-5-308.1;
1036 (ii) human trafficking of a child for commercial sexual exploitation under [
1037 ~~Subsection 76-5-308.5(4)(b)] Section 76-5-308.6;~~
1038 (iii) aggravated human trafficking for commercial sexual exploitation under Section [
1039 ~~76-5-310] 76-5-310.2;~~
1040 (iv) human trafficking of a vulnerable adult for commercial sexual exploitation under
1041 Section [~~76-5-311~~] 76-5-312;
1042 (v) aggravated kidnapping under Section 76-5-302, except if the offender is a natural
1043 parent of the victim;
1044 (vi) forcible sodomy under Section 76-5-403;
1045 (vii) sexual abuse of a child under Section 76-5-404.1;
1046 (viii) sexual exploitation of a minor under Section 76-5b-201;
1047 (ix) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
1048 (x) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
1049 (xi) aggravated exploitation of prostitution under Section 76-5d-208, on or after May
1050 10, 2011; or

1051 (z) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject
1052 to a 20-year petition for removal as described in Section 53-29-206, if:
1053 (i) the sentencing court determines that the offender was under 21 years old at the
1054 time the offense was committed; and
1055 (ii) the offense did not involve force or coercion as described in Subsection
1056 53-29-203(3).

1057 (4) An individual who is as an offender under Section 53-29-202 based on a conviction in
1058 an external jurisdiction for a registrable offense, or a substantially equivalent offense,
1059 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
1060 offender registry, or an equivalent registry, may petition for removal from the registry in
1061 accordance with the requirements of this section if the individual:
1062 (a) does not have a lifetime registration requirement on the external jurisdiction's sex,
1063 kidnap, or child abuse offender registry, or an equivalent registry;
1064 (b) meets the requirements described in Subsections (1)(a) through (c);
1065 (c) has resided in this state for at least 183 days in a year for two consecutive years;
1066 (d) intends to primarily reside in this state; and
1067 (e) has received an order from a court in the external jurisdiction where the offender was
1068 initially required to register on a sex, kidnap, and child abuse registry, or an
1069 equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap,
1070 and Child Abuse Offender Registry.

1071 Section 6. Section **53G-6-603** is amended to read:

1072 **53G-6-603 . Requirement of birth certificate for enrollment of students --**

1073 **Procedures.**

1074 (1) As used in this section:

1075 (a) "Child trafficking" means:
1076 (i) [-]human trafficking of a child for labor in violation of Section 76-5-308.5; or
1077 (ii) human trafficking of a child for commercial sexual exploitation in violation of
1078 Section 76-5-308.6.
1079 (b) "Enroller" means an individual who enrolls a student in a public school.
1080 (c) "Review team" means a team described in Subsection (4), assigned to determine a
1081 student's biological age as described in this section.
1082 (d) "Social service provider" means the same as that term is defined in Section
1083 53E-3-524.
1084 (2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a

1085 particular school, that school shall notify the enroller in writing that within 30 days the
1086 enroller shall provide to the school either:

1087 (a) a certified copy of the student's birth certificate; or
1088 (b)(i) other reliable proof of the student's:

1089 (A) identity;

1090 (B) biological age; and

1091 (C) relationship to the student's legally responsible individual; and

1092 (ii) an affidavit explaining the enroller's inability to produce a copy of the student's
1093 birth certificate.

1094 (3)(a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately
1095 reflects the student's biological age, the enroller shall provide to the school:

1096 (i) an affidavit explaining the reasons for the inaccuracy described in Subsection
1097 (3)(a); and

1098 (ii) except as provided in Subsection (4), supporting documentation that establishes
1099 the student's biological age.

1100 (b) The supporting documentation described in Subsection (3)(a)(ii) may include:

1101 (i) a religious, hospital, physician, or physician assistant certificate showing the
1102 student's date of birth;

1103 (ii) an entry in a family religious text;

1104 (iii) an adoption record;

1105 (iv) previously verified school records;

1106 (v) previously verified immunization records;

1107 (vi) documentation from a social service provider; or

1108 (vii) other legal documentation, including from a consulate, that reflects the student's
1109 biological age.

1110 (4)(a) If the supporting documentation described in Subsection (3)(b) is not available,
1111 the school shall assign a review team to work with the enroller to determine the
1112 student's biological age for an LEA to use for a student's enrollment and appropriate
1113 placement in a public school.

1114 (b) The review team described in Subsection (4)(a):

1115 (i) may include:

1116 (A) an appropriate district administrator;

1117 (B) the student's teacher or teachers;

1118 (C) the school principal;

1119 (D) a school counselor;
1120 (E) a school social worker;
1121 (F) a school psychologist;
1122 (G) a culturally competent and trauma-informed community representative;
1123 (H) a school nurse or other school health specialist;
1124 (I) an interpreter, if necessary; or
1125 (J) a relevant educational equity administrator; and
1126 (ii) shall include at least three members, at least one of which has completed the
1127 instruction described in Subsection 53G-9-207(3)(a), no more than two years prior
1128 to the member's appointment to the review team.

1129 (c) In addition to any duty to comply with the mandatory reporting requirements
1130 described in Section 53E-6-701, a school shall report to local law enforcement and to
1131 the division any sign of child trafficking that the review team identifies in carrying
1132 out the review team's duties described in Subsection (4)(a).

1133 Section 7. Section **76-1-301** is amended to read:

1134 **76-1-301 . Offenses for which prosecution may be commenced at any time.**

1135 (1) As used in this section:

1136 (a) "Aggravating offense" means any offense incident to which a homicide was
1137 committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection
1138 76-5-202(2)(b).

1139 (b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a
1140 person other than a party as defined in Section 76-2-202 was killed in the course of
1141 the commission, attempted commission, or immediate flight from the commission or
1142 attempted commission of the offense.

1143 (2) Notwithstanding any other provisions of this code, prosecution for the following
1144 offenses may be commenced at any time:

1145 (a) an offense classified as a capital felony under Section 76-3-103;
1146 (b) aggravated murder under Section 76-5-202;
1147 (c) murder under Section 76-5-203;
1148 (d) manslaughter under Section 76-5-205;
1149 (e) child abuse homicide under Section 76-5-208;
1150 (f) aggravated kidnapping under Section 76-5-302;
1151 (g) child kidnapping under Section 76-5-301.1;
1152 (h) rape under Section 76-5-402;

1153 (i) rape of a child under Section 76-5-402.1;
1154 (j) object rape under Section 76-5-402.2;
1155 (k) object rape of a child under Section 76-5-402.3;
1156 (l) forcible sodomy under Section 76-5-403;
1157 (m) sodomy on a child under Section 76-5-403.1;
1158 (n) sexual abuse of a child under Section 76-5-404.1;
1159 (o) aggravated sexual abuse of a child under Section 76-5-404.3;
1160 (p) aggravated sexual assault under Section 76-5-405;
1161 (q) any predicate offense to a murder or aggravating offense to an aggravated murder;
1162 (r) aggravated human trafficking under Section 76-5-310 or 76-5-310.2;
1163 [(s) aggravated human smuggling under Section 76-5-310.1;]
1164 [(t)] (s) human trafficking of a child for labor under Section 76-5-308.5;
1165 (t) human trafficking of a child for commercial sexual exploitation under Section
1166 76-5-308.6;
1167 (u) [-] aggravated human smuggling under Section 76-5-317; or
1168 [(u)] (v) aggravated exploitation of prostitution involving a child under Section 76-5d-208.

1169 Section 8. Section **76-2-304.5** is amended to read:

1170 **76-2-304.5 . Mistake as to victim's age not a defense.**

1171 (1) It is not a defense to the following offenses that the actor mistakenly believed the victim
1172 to be 14 years old or older at the time of the alleged offense or was unaware of the
1173 victim's true age:
1174 (a) child kidnapping, Section 76-5-301.1;
1175 (b) rape of a child, Section 76-5-402.1;
1176 (c) object rape of a child, Section 76-5-402.3;
1177 (d) sodomy on a child, Section 76-5-403.1;
1178 (e) sexual abuse of a child, Section 76-5-404.1;
1179 (f) aggravated sexual abuse of a child, Section 76-5-404.3;
1180 (g) unlawful kissing of a child, Section 76-5-416.2; or
1181 (h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).
1182 (2) It is not a defense to the following offenses that the actor mistakenly believed the victim
1183 to be 16 years old or older at the time of the alleged offense or was unaware of the
1184 victim's true age:
1185 (a) unlawful sexual activity with a minor, Section 76-5-401;
1186 (b) sexual abuse of a minor, Section 76-5-401.1; or

1187 (c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

1188 (3) It is not a defense to the following offenses that the actor mistakenly believed the victim

1189 to be 18 years old or older at the time of the alleged offense or was unaware of the

1190 victim's true age:

1191 (a) human trafficking of a child for labor, Section 76-5-308.5;

1192 (b) human trafficking of a child for commercial sexual exploitation, Section 76-5-308.6;

1193 [(b)] (c) aggravated human trafficking, Section 76-5-310;

1194 [(e)] (d) aggravated human smuggling, Section [76-5-310.1] 76-5-317;

1195 [(d)] (e) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

1196 [(e)] (f) patronizing a prostituted individual who is a child, Section 76-5d-204;

1197 [(f)] (g) aggravated exploitation of prostitution, Section 76-5d-208; or

1198 [(g)] (h) sexual solicitation by an actor offering compensation to a child in exchange for

1199 sexual activity, Section 76-5d-211.

1200 Section 9. Section **76-3-203.19** is amended to read:

1201 **76-3-203.19 . Aggravating factor for an offense committed against a child or**

1202 **minor as part of a ritual.**

1203 (1) As used in this section:

1204 (a) "Offense against a child or minor" means an offense that is:

1205 (i) child abuse as described in Section 76-5-109;

1206 (ii) child torture, as described in Section 76-5-109.4;

1207 (iii) aggravated child abuse as described in Section 76-5-109.2;

1208 (iv) abuse or neglect of a child with a disability as described in Section 76-5-110;

1209 (v) child abuse homicide as described in Section 76-5-208;

1210 (vi) kidnapping as described in Section 76-5-301, if committed against an individual

1211 under 18 years old;

1212 (vii) child kidnapping as described in Section 76-5-301.1;

1213 (viii) aggravated kidnapping as described in Section 76-5-302, if committed against

1214 an individual under 18 years old;

1215 (ix) human trafficking of a child for labor as described in Section 76-5-308.5;

1216 (x) human trafficking of a child for commercial sexual exploitation as described in

1217 Section 76-5-308.6;

1218 [(x)] (xi) unlawful sexual activity with a minor as described in Section 76-5-401;

1219 [(xi)] (xii) sexual abuse of a minor as described in Section 76-5-401.1;

1220 [(xii)] (xiii) rape as described in Section 76-5-402, if committed against an individual

1221 under 18 years old;

1222 [(~~xiii~~) (xiv) rape of a child as described in Section 76-5-402.1;

1223 [(~~xiv~~) (xv) object rape as described in Section 76-5-404.2, if committed against an

1224 individual under 18 years old;

1225 [(~~xv~~) (xvi) object rape of a child as described in Section 76-5-402.3;

1226 [(~~xvi~~) (xvii) forcible sodomy as described in Section 76-5-403, if committed against

1227 an individual under 18 years old;

1228 [(~~xvii~~) (xviii) sodomy on a child as described in Section 76-5-403.1;

1229 [(~~xviii~~) (xix) forcible sexual abuse as described in Section 76-5-404, if committed

1230 against an individual under 18 years old;

1231 [(~~xix~~) (xx) sexual abuse of a child as described in Section 76-5-404.1;

1232 [(~~xx~~) (xxi) aggravated sexual abuse of a child as described in Section 76-5-404.3;

1233 [(~~xxi~~) (xxii) aggravated sexual assault as described in Section 76-5-405, if committed

1234 against an individual under 18 years old;

1235 [(~~xxii~~) (xxiii) unlawful kissing of a child as described in Section 76-5-416.2; or

1236 [(~~xxiii~~) (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) Subsektion (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 the Convention on the Rights of the Child.

76-5-304

Section 12

76-5-308 Human trafficking for labor

As used in this section:

(ii) "Commercial sexual

76-5-308.1.

(iii) 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

1323 that is:

1324 (A) made to obtain money, property, a benefit, or a service to which a person is
1325 not entitled;

1326 (B) intended to cause another person to rely upon the representation; and

1327 (C) relied upon by another person.

1328 (b) Terms defined in [Sections] Section 76-1-101.5[and 76-5-307] apply to this section.

1329 (2) An actor commits human trafficking for labor if:

1330 (a) [-]the actor [reeruits,] enlists, harbors, transports, obtains, [patronizes, or solicits] or
1331 uses an individual [for labor] for the purpose of procuring or using the individual's
1332 labor through the use of force, fraud, or coercion[, which may include] ;

1333 (b) the labor described in Subsection (2)(a) is not a commercial sexual act or a
1334 commercial sexually explicit performance; and

1335 (c) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:

1336 [(a)] (i) causing, or threatening to cause, serious harm to[, or physical restraint
1337 against, that] the individual or another individual;

1338 (ii) physically restraining, or threatening to physically restrain, the individual or
1339 another individual;

1340 [(b)] (iii) destroying, concealing, removing, confiscating, or unlawfully possessing [
1341 any] a passport, immigration document, or other government-issued identification
1342 document;

1343 [(e)] (iv) [abusing or threatening abuse of the law or legal process] using, or
1344 threatening to use, the legal process in an unlawful manner against the individual
1345 or another individual;

1346 (v) kidnapping, or threatening to kidnap, the individual or another individual;

1347 (vi) extortion of the individual or another individual;

1348 (vii) facilitating or controlling the individual's access to a controlled substance; or

1349 (viii) creating or exploiting a circumstance under which:

1350 (A) the individual is unable to terminate the employment relationship; or

1351 (B) the individual is unlawfully forced to remain in a condition of servitude.

1352 [(d) using a condition of an individual being a debtor due to a pledge of the individual's
1353 personal services or the personal services of an individual under the control of the
1354 debtor as a security for debt where the reasonable value of the services is not applied
1355 toward the liquidation of the debt or the length and nature of those services are not
1356 respectively limited and defined;]

1357 [e) using a condition of servitude by means of any scheme, plan, or pattern intended to
1358 cause an individual to believe that if the individual did not enter into or continue in a
1359 condition of servitude, the individual or another individual would suffer serious harm
1360 or physical restraint, or would be threatened with abuse of legal process; or]
1361 [f) creating or exploiting a relationship where the individual is dependent upon the actor.]

1362 (3)(a) A violation of Subsection (2) is a second degree felony if the violation is done
1363 knowingly.

1364 (b) A violation of Subsection (2) is a third degree felony if the violation is done
1365 recklessly.

1366 [4) Human trafficking for labor includes any labor obtained through force, fraud, or
1367 coercion as described in Subsection (2).]

1368 [5) (4) [This offense] An offense committed under this section is a separate offense from
1369 any other [crime] offense committed in relationship to the commission of [this offense] an
1370 offense under this section.

1371 Section 13. Section **76-5-308.1** is amended to read:

1372 **76-5-308.1 . Human trafficking for commercial sexual exploitation.**

1373 (1)(a) As used in this section:

1374 (i) "Commercial sexual act" means participating in an act of sexual activity with
1375 another individual for which anything of value is offered, given to, or received by
1376 any individual.

1377 (ii)(A) "Commercial sexually explicit performance" means a sexually explicit
1378 performance or activity for which anything of value is offered, given to, or
1379 received by any individual.

1380 (B) "Commercial sexually explicit performance" does not include a commercial
1381 sexual act.

1382 (iii) "Extortion" means the same as that term is defined in Section 76-5-308.

1383 (iv) "Fraud" means the same as that term is defined in Section 76-5-308.

1384 (v) "Sexual activity" means:

1385 (A) sexual intercourse or any other sexual act involving the genitals of one
1386 individual and the mouth or anus of another individual; or

1387 (B) the touching of the genitals, female breast, or anus of one individual with any
1388 other body part of another individual with the intent to sexually arouse or
1389 gratify either individual.

1390 (b) Terms defined in [Seetions] Section 76-1-101.5 [and 76-5-307]apply to this section.

1391 (2) An actor commits human trafficking for commercial sexual exploitation if:

1392 (a) [-the actor recruits, enlists, harbors, transports, obtains, patronizes, or solicits an
1393 individual [for sexual exploitation] for the purpose of procuring the individual's labor
1394 in the form of a commercial sexually explicit performance or commercial sexual act
1395 through the use of force, fraud, or coercion[, which may include:] ; and

1396 (b) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:

1397 [(a)] (i) causing, or threatening to cause, serious harm to[, or physical restraint
1398 against, that] the individual or another individual;

1399 (ii) physically restraining, or threatening to physically restrain, the individual or
1400 another individual;

1401 [(b)] (iii) destroying, concealing, removing, confiscating, or unlawfully possessing [
1402 any] a passport, immigration document, or other government-issued identification
1403 document;

1404 [(e)] (iv) [abusing or threatening abuse of the law or legal process] using, or
1405 threatening to use, the legal process in an unlawful manner against the individual
1406 or another individual;

1407 (v) kidnapping, or threatening to kidnap, the individual or another individual;

1408 (vi) extortion of the individual or another individual;

1409 (vii) facilitating or controlling the individual's access to a controlled substance; or

1410 (viii) creating or exploiting a circumstance under which:

1411 (A) the individual is unable to terminate the employment relationship; or

1412 (B) the individual is unlawfully forced to remain in a condition of servitude.

1413 [(d) using a condition of an individual being a debtor due to a pledge of the individual's
1414 personal services or the personal services of an individual under the control of the
1415 debtor as a security for debt where the reasonable value of the services is not applied
1416 toward the liquidation of the debt or the length and nature of those services are not
1417 respectively limited and defined;]

1418 [(e) using a condition of servitude by means of any scheme, plan, or pattern intended to
1419 cause an individual to believe that if the individual did not enter into or continue in a
1420 condition of servitude, the individual or another individual would suffer serious harm
1421 or physical restraint, or would be threatened with abuse of legal process; or]

1422 [(f) creating or exploiting a relationship where the individual is dependent upon the actor.]

1423 (3)(a) A violation of Subsection (2) is a first degree felony if the violation:

1424 (i) involves a commercial sexual act; and

(ii) is done knowingly.

(b) A violation of Subsection (2) is a second degree felony if the violation:

(i)(A) involves a commercial sexually explicit performance; and

(B) is done knowingly; or

(ii)(A) involves a commercial sexual act; and

(B) is done recklessly.

(c) A violation of Subsection (2) is a third degree felony if the violation:

(i) involves a commercial sexually explicit performance; and

(ii) is done recklessly.

[4] Human trafficking for sexual exploitation includes all forms of commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):]

[~~(a)~~ sexually explicit performancee;]

[**(b)** ~~prostitution;~~]

[e) participation in the production of pornography;]

[~~(d)~~ performance in strip clubs; and]

[~~(e) exotic dancing or display.~~]

[{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 14. Section **76-5-308.5** is amended to read:

76-5-308.5 . Human trafficking of a child for labor.

(1)(a) As used in this section[, "commercial sexual activity with a child" means any sexual act with a child, for which anything of value is given to or received by any person.] :

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

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

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

(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

1493 club, and exotic dancing or display as described in Section 76-5-308.1.]

1494 [5) (4) [This offense] An offense committed under this section is a separate offense from
1495 any other [crime] offense committed in relationship to the commission of [this offense] an
1496 offense under this section.

1497 (5) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this
1498 section that the actor mistakenly believed the child described in Subsection (2) was 18
1499 years old or older at the time of the violation of Subsection (2) or was unaware of the
1500 child's true age.

1501 Section 15. Section **76-5-308.6** is enacted to read:

1502 **76-5-308.6 . Human trafficking of a child for commercial sexual exploitation.**

1503 (1)(a) As used in this section:

1504 (i) "Child" means an individual who is younger than 18 years old.

1505 (ii) "Commercial sexual act" means the same as that term is defined in Section
1506 76-5-308.1.

1507 (iii) "Commercial sexually explicit performance" means the same as that term is
1508 defined in Section 76-5-308.1.

1509 (b) Terms defined in Section 76-1-101.5 apply to this section.

1510 (2) An actor commits human trafficking of a child for commercial sexual exploitation if the
1511 actor enlists, harbors, transports, obtains, patronizes, or solicits a child for the purpose of
1512 procuring the child's labor in the form of a commercial sexual act or a commercial
1513 sexually explicit performance.

1514 (3)(a) A violation of Subsection (2) that is done knowingly is a first degree felony
1515 punishable by a term of imprisonment of not less than:

1516 (i) 10 years and which may be for life if the child described in Subsection (2) is 14
1517 years old or older but younger than 18 years old; or

1518 (ii) 15 years and which may be for life if the child described in Subsection (2) is
1519 under 14 years old.

1520 (b) A violation of Subsection (2) that is done recklessly is a second degree felony.

1521 (4) An offense committed under this section is a separate offense from any other offense
1522 committed in relationship to the commission of an offense under this section.

1523 (5) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this
1524 section that the actor mistakenly believed the child described in Subsection (2) was 18
1525 years old or older at the time of the violation of Subsection (2) or was unaware of the
1526 child's true age.

1527 Section 16. Section **76-5-309** is amended to read:

1528 **76-5-309 . Criminal liability based on benefiting from human trafficking or**
1529 **human smuggling.**

1530 (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

1531 (2) An actor is a party to the offense if the actor benefits, receives, or exchanges anything of
1532 value from knowing participation in:

1533 (a) human trafficking for labor in violation of Section 76-5-308;

1534 [~~(b) human smuggling in violation of Section 76-5-308.3;~~]
1535 [~~(e) human trafficking of a child in violation of Section 76-5-308.5; and~~]
1536 [~~(d)~~] (b) human trafficking for commercial sexual exploitation in violation of Section
1537 76-5-308.1[.];
1538 (c) human trafficking of a child for labor in violation of Section 76-5-308.5;
1539 (d) human trafficking of a child for commercial sexual exploitation in violation of
1540 Section 76-5-308.6;
1541 (e) human trafficking of a vulnerable adult for labor in violation of Section 76-5-311;
1542 (f) human trafficking of a vulnerable adult for commercial sexual exploitation in
1543 violation of Section 76-5-312; or
1544 (g) human smuggling in violation of Section 76-5-316.

1545 [~~(3)(a) A violation of Subsection (2)(a) is a second degree felony.]~~

1546 [~~(b) A violation of Subsection (2)(b) is a third degree felony.]~~

1547 [~~(e) A violation of Subsection (2)(e) is a first degree felony punishable by a term of~~
1548 ~~imprisonment of not less than 10 years and which may be for life.]~~

1549 [~~(d) A violation of Subsection (2)(d) is a first degree felony.]~~

1550 [~~(4) An actor commits a separate offense of human trafficking, human trafficking of a child,~~
1551 ~~or human smuggling for each individual who is smuggled or trafficked under Section~~
1552 ~~76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310, or 76-5-310.1.]~~

1553 Section 17. Section **76-5-310** is amended to read:

1554 **76-5-310 . Aggravated human trafficking for labor.**

1555 (1) Terms defined in [Seetions] Section 76-1-101.5[and 76-5-307] apply to this section.

1556 (2) An actor commits aggravated human trafficking for labor [~~or sexual exploitation~~]if, in
1557 the course of committing an offense of human trafficking for labor under Section
1558 76-5-308[~~or 76-5-308.1~~], the offense:

1559 (a) results in the death of [~~a trafficked individual~~] an individual who is a victim of the
1560 offense described in Section 76-5-308;

1561 (b) results in serious bodily injury of [a trafficked individual] an individual who is a
1562 victim of the offense described in Section 76-5-308;
1563 (c) involves:
1564 (i) rape under Section 76-5-402;
1565 (ii) rape of a child under Section 76-5-402.1;
1566 (iii) object rape under Section 76-5-402.2;
1567 (iv) object rape of a child under Section 76-5-402.3;
1568 (v) forcible sodomy under Section 76-5-403;
1569 (vi) sodomy on a child under Section 76-5-403.1;
1570 (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or
1571 (viii) aggravated sexual assault under Section 76-5-405;
1572 (d) involves the trafficking of 10 or more individuals; or
1573 (e) involves an individual trafficked for longer than 30 consecutive days.
1574 (3) A violation of Subsection (2) is a first degree felony punishable by a term of
1575 imprisonment of not less than 10 years and which may be for life.
1576 (4) [Aggravated human trafficking] An offense under this section is a separate offense from
1577 any other [crime] offense committed in relationship to the commission of [the offense] an
1578 offense under this section.

1579 Section 18. Section **76-5-310.2** is enacted to read:

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

1580 (1) Terms defined in Section 76-1-101.5 apply to this section.
1581 (2) An actor commits aggravated human trafficking for commercial sexual exploitation if,
1582 in the course of committing an offense of human trafficking for commercial sexual
1583 exploitation under Section 76-5-308.1, the offense:
1584 (a) results in the death of an individual who is a victim of the offense described in
1585 Section 76-5-308.1;
1586 (b) results in serious bodily injury of an individual who is a victim of the offense
1587 described in Section 76-5-308.1;
1588 (c) involves:
1589 (i) rape under Section 76-5-402;
1590 (ii) rape of a child under Section 76-5-402.1;
1591 (iii) object rape under Section 76-5-402.2;
1592 (iv) object rape of a child under Section 76-5-402.3;
1593 (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) [reeruits,] 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
the actor knows, is reckless, or is criminally negligent as to whether, the vulnerable adult described in Subsection (2)(a) is a vulnerable adult.

(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:**]

[+] 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

1697 (c) the actor:

1698 (i) knows the individual's services or labor is being provided as a result of another
1699 person's exercise of force, fraud, or coercion over the individual; or
1700 (ii) is reckless as to whether the individual's services or labor is being provided as a
1701 result of another person's exercise of force, fraud, or coercion over the individual.

1702 (3)(a) A violation of Subsection (2)(c)(i) is a third degree felony.

1703 (b) A violation of Subsection (2)(c)(ii) is a class A misdemeanor.

1704 Section 22. Section **76-5-314** is enacted to read:

1705 **76-5-314 . Patronizing a child victim of human labor trafficking.**

1706 (1)(a) As used in this section:

1707 (i) "Child" means an individual who is younger than 18 years old.
1708 (ii) "Commercial sexual act" means the same as that term is defined in Section
1709 76-5-308.1.
1710 (iii) "Commercial sexually explicit performance" means the same as that term is
1711 defined in Section 76-5-308.1.
1712 (iv) "Fraud" means the same as that term is defined in Section 76-5-308.

1713 (b) Terms defined in Section 76-1-101.5 apply to this section.

1714 (2) An actor commits patronizing a child victim of labor exploitation if:

1715 (a) the actor knowingly requests or accepts services or labor from an individual;
1716 (b) the services or labor described in Subsection (2)(a) is not a commercial sexual act or
1717 a commercial sexually explicit performance;
1718 (c) the actor knows, is reckless, or is criminally negligent as to whether, the individual
1719 described in Subsection (2)(a) is a child;
1720 (d) the individual described in Subsection (2)(a) is a child; and
1721 (e) the actor:

1722 (i) knows the individual's services or labor is being provided as a result of another
1723 person's exercise of force, fraud, or coercion over the individual;
1724 (ii) is reckless as to whether the individual's services or labor is being provided as a
1725 result of another person's exercise of force, fraud, or coercion over the individual;
1726 or
1727 (iii) is criminally negligent as to whether the individual's services or labor is being
1728 provided as a result of another person's exercise of force, fraud, or coercion over
1729 the individual.

1730 (3)(a) A violation of Subsection (2)(e)(i) is a second degree felony.

1731 (b) A violation of Subsection (2)(e)(ii) is a third degree felony.

1732 (c) A violation of Subsection (2)(e)(iii) is a class A misdemeanor.

1733 Section 23. Section **76-5-315** is enacted to read:

1734 **76-5-315 . Patronizing a vulnerable adult victim of human labor trafficking.**

1735 (1)(a) As used in this section:

1736 (i) "Commercial sexual act" means the same as that term is defined in Section
1737 76-5-308.1.

1738 (ii) "Commercial sexually explicit performance" means the same as that term is
1739 defined in Section 76-5-308.1.

1740 (iii) "Fraud" means the same as that term is defined in Section 76-5-308.

1741 (iv) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

1742 (b) Terms defined in Section 76-1-101.5 apply to this section.

1743 (2) An actor commits patronizing a vulnerable adult victim of human labor trafficking if:

1744 (a) the actor knowingly requests or accepts services or labor from an individual;

1745 (b) the services or labor described in Subsection (2)(a) is not a commercial sexual act or
1746 a commercial sexually explicit performance;

1747 (c) the actor knows, is reckless, or is criminally negligent as to whether, the individual
1748 described in Subsection (2)(a) is a vulnerable adult;

1749 (d) the individual described in Subsection (2)(a) is a vulnerable adult; and

1750 (e) the actor:

1751 (i) knows the individual's services or labor is being provided as a result of another
1752 person's exercise of force, fraud, or coercion over the individual;

1753 (ii) is reckless as to whether the individual's services or labor is being provided as a
1754 result of another person's exercise of force, fraud, or coercion over the individual;

1755 or

1756 (iii) is criminally negligent as to whether the individual's services or labor is being
1757 provided as a result of another person's exercise of force, fraud, or coercion over
1758 the individual.

1759 (3)(a) A violation of Subsection (2)(e)(i) is a second degree felony.

1760 (b) A violation of Subsection (2)(e)(ii) is third degree felony.

1761 (c) A violation of Subsection (2)(e)(iii) is a class A misdemeanor.

1762 Section 24. Section **76-5-316**, which is renumbered from Section 76-5-308.3 is renumbered
1763 and amended to read:

1764 **[76-5-308.3] 76-5-316 . Human smuggling.**

1765 (1)(a) As used in this section:

1766 (i) "Commercial purpose" includes direct or indirect participation in, or facilitation
1767 of, the transportation of one or more individuals for the purpose of:

1768 (A) charging or obtaining a fee, or attempting to charge or obtain a fee, for the
1769 transportation; or

1770 (B) obtaining, exchanging, or receiving, or attempting to obtain, exchange, or
1771 receive, any thing or item of value.

1772 (ii) "Facilitation of the transportation" includes providing:

1773 (A) travel arrangement services;

1774 (B) payment for the costs of travel; or

1775 (C) property that would advance an act of transportation, including:

1776 (I) a vehicle or other means of transportation;

1777 (II) a weapon;

1778 (III) false identification; or

1779 (IV) making lodging available, including by rent, lease, or sale.

1780 (b) Terms defined in [Seetions] Section 76-1-101.5 [and 76-5-307] apply to this section.

1781 (2) An actor commits human smuggling if the actor transports or procures the transportation
1782 for one or more individuals for a commercial purpose, knowing or having reason to
1783 know that the individual or individuals transported or to be transported are not:

1784 (a) citizens of the United States;

1785 (b) permanent resident aliens; or

1786 (c) otherwise lawfully in this state or entitled to be in this state.

1787 (3) A violation of Subsection (2) is a second degree felony.

1788 (4) [This offense is a separate offense from any other crime committed in relationship to the
1789 commission of this offense] An offense committed under this section is a separate
1790 offense from any other offense committed in relationship to the commission of an
1791 offense under this section.

1792 Section 25. Section **76-5-317**, which is renumbered from Section 76-5-310.1 is renumbered
1793 and amended to read:

1794 **[76-5-310.1] 76-5-317 . Aggravated human smuggling.**

1795 (1)(a) As used in this section, "family member" means an individual's parent,

1796 grandparent, sibling, or other individual related to the individual by consanguinity or
1797 affinity to the second degree.

1798 (b) Terms defined in [Seetions] 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.

1867 (4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law
1868 enforcement officer or an undercover operative who is employed by a law enforcement
1869 agency was involved in the detection or investigation of the offense.

1870 (5)(a) When an actor who commits a felony violation of this section has previously been
1871 convicted of an offense described in Subsection (5)(b), the court may not in any way
1872 shorten the prison sentence, and the court may not:

- 1873 (i) grant probation;
- 1874 (ii) suspend the execution or imposition of the sentence;
- 1875 (iii) enter a judgment for a lower category of offense; or
- 1876 (iv) order hospitalization.

1877 (b) The [seetions] offenses referred to in Subsection (5)(a) are:

- 1878 (i) child kidnapping as described in Section 76-5-301.1;
- 1879 (ii) human trafficking of a child for labor as described in Section 76-5-308.5;
- 1880 (iii) human trafficking of a child for commercial sexual exploitation as described in
Section 76-5-308.6;
- 1882 [(\u00b9ii)] (iv) rape as described in Section 76-5-402;
- 1883 [(\u00b9iv)] (v) rape of a child as described in Section 76-5-402.1;
- 1884 [(\u00b9v)] (vi) object rape as described in Section 76-5-402.2;
- 1885 [(\u00b9vi)] (vii) object rape of a child as described in Section 76-5-402.3;
- 1886 [(\u00b9vii)] (viii) forcible sodomy as described in Section 76-5-403;
- 1887 [(\u00b9viii)] (ix) sodomy on a child as described in Section 76-5-403.1;
- 1888 [(\u00b9ix)] (x) forcible sexual abuse as described in Section 76-5-404;
- 1889 [(\u00b9x)] (xi) sexual abuse of a child as described in Section 76-5-404.1;
- 1890 [(\u00b9xi)] (xii) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 1891 [(\u00b9xii)] (xiii) aggravated sexual assault as described in Section 76-5-405;
- 1892 [(\u00b9xiii)] (xiv) enticing a minor to engage in sexual activity as described in Section
1893 76-5-417;
- 1894 [(\u00b9xiv)] (xv) any offense in any other state or federal jurisdiction that constitutes or
1895 would constitute a crime in Subsections (5)(b)(i) through [(\u00b9xiii)] (xiv); or
- 1896 [(\u00b9xv)] (xvi) the attempt, solicitation, or conspiracy to commit any of the offenses in
1897 Subsections (5)(b)(i) through [(\u00b9xiv)] (xv).

1898 Section 27. Section **76-5d-106** is amended to read:

1899 **76-5d-106 . Safe harbor for children as victims in commercial sex or sexual**
1900 **solicitation.**

1901 (1) As used in this section:

1902 (a) "Child engaged in commercial sex or sexual solicitation" means a child who:

1903 (i) engages, offers, or agrees to engage in any sexual activity with another individual
1904 in exchange for receiving a fee, or the functional equivalent of a fee;

1905 (ii) takes steps in arranging a meeting through any form of advertising, agreeing to
1906 meet, and meeting at an arranged place for the purpose of sexual activity in
1907 exchange for receiving a fee or the functional equivalent of a fee;

1908 (iii) loiters in or within view of any public place for the purpose of being hired to
1909 engage in sexual activity; or

1910 (iv) engages in sexual solicitation.

1911 (b) "Division" means the Division of Child and Family Services created in Section
1912 80-2-201.

1913 (c) "Juvenile receiving center" means the same as that term is defined in Section
1914 80-1-102.

1915 (2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law
1916 enforcement officer shall:

1917 (a) conduct an investigation regarding possible human trafficking of the child pursuant
1918 to Sections 76-5-308, 76-5-308.1, ~~[and]~~ 76-5-308.5, and 76-5-308.6;

1919 (b) refer the child to the division;

1920 (c) bring the child to a juvenile receiving center, if available; and

1921 (d) contact the child's parent or guardian, if practicable.

1922 (3) When law enforcement refers a child to the division under Subsection (2)(b), the
1923 division shall provide services to the child under Title 80, Chapter 2, Child Welfare
1924 Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

1925 Section 28. Section **76-5d-208** is amended to read:

1926 **76-5d-208 . Aggravated exploitation of prostitution.**

1927 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

1928 (2) An actor commits aggravated exploitation of prostitution if:

1929 (a) in committing an act of exploitation of prostitution as described in Section 76-5d-207,
1930 the actor uses any force, threat, or fear against any individual;

1931 (b) the individual whom the actor procured, transported, or persuaded or with whom the
1932 actor shares the proceeds of prostitution, is a child or is the spouse of the actor; or

1933 (c) in the course of committing an act of exploitation of prostitution as described in
1934 Section 76-5d-207, the actor commits human trafficking or human smuggling in

1935 violation of Section 76-5-308, 76-5-308.1, [76-5-308.3, or]76-5-308.5, 76-5-308.6,
1936 76-5-310, 76-5-310.2, 76-5-311, 76-5-312, 76-5-316, or 76-5-317.

1937 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1938 degree felony.
1939 (b) A violation of Subsection (2) is a first degree felony if the violation involves a child.
1940 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine
1941 amount and may not waive or suspend the fine.

1942 Section 29. Section **76-5d-211** is amended to read:

1943 **76-5d-211 . Sexual solicitation by an actor offering compensation to a child in
1944 exchange for sexual activity.**

1945 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
1946 (2) Under circumstances not amounting to an offense described in Subsection (4), an actor
1947 commits the offense of sexual solicitation by an actor offering compensation to a child
1948 in exchange for sexual activity if the actor:
1949 (a) is 12 years old or older; and
1950 (b)(i) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee,
1951 to a child to hire the child to commit any sexual activity; or
1952 (ii) with intent to pay a child to be hired to commit any sexual activity for a fee, or
1953 the functional equivalent of a fee, requests or directs the child to engage in any of
1954 the following acts:
1955 (A) exposure or touching of the child's genitals, the buttocks, the anus, the pubic
1956 area, or the female breast below the top of the areola;
1957 (B) masturbation; or
1958 (C) any act of lewdness.

1959 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1960 degree felony.
1961 (b) If the actor is under 18 years old at the time of the offense, a violation of Subsection
1962 (2) is:
1963 (i) a third degree felony if:
1964 (A) the actor is 17 years old and the child is 13 years old or younger; or
1965 (B) the actor is 16 years old and the child is 12 years old or younger;
1966 (ii) a class A misdemeanor if:
1967 (A) the actor is 17 years old and the child is 14 years old;
1968 (B) the actor is 16 years old and the child is 13 years old;

- (C) the actor is 15 years old and the child is 12 years old or younger; or
- (D) the actor is 14 years old and the child is 11 years old or younger;

(iii) a class B misdemeanor if:

- (A) the actor is 17 years old and the child is 15 years old;
- (B) the actor is 16 years old and the child is 14 years old;
- (C) the actor is 15 years old and the child is 13 years old;
- (D) the actor is 14 years old and the child is 12 years old;
- (E) the actor is 13 years old and the child is 11 years old or younger; or
- (F) the actor is 12 years old and the child is 10 years old or younger; or

(iv) a class C misdemeanor if:

- (A) the actor is 17 years old and the child is 16 or 17 years old;
- (B) the actor is 16 years old and the child is 15 years old or older;
- (C) the actor is 15 years old and the child is 14 years old or older;
- (D) the actor is 14 years old and the child is 13 years old or older;
- (E) the actor is 13 years old and the child is 12 years old or older; or
- (F) the actor is 12 years old and the child is 11 years old or older.

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

- (a) human trafficking for labor as described in Section 76-5-308;
- (b) human trafficking for commercial sexual exploitation as described in Section 76-5-308.1;
- [~~(c) human smuggling as described in Section 76-5-308.3;~~]
- [~~(d) human trafficking of a child as described in Section 76-5-308.5;~~]
- (c) human trafficking of a child for commercial sexual exploitation under Section 76-5-308.6;
- [~~(e) aggravated human trafficking as described in Section 76-5-310; and~~]
- (d) aggravated human trafficking for commercial sexual exploitation as described in Section 76-5-310.2;
- (e) human smuggling as described in Section 76-5-316; and
- (f) aggravated human smuggling as described in Section [76-5-310.1] 76-5-317.

(5) The actor's intent to hire a child to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.

(6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor

2003 engages in a violation of Subsection (2) at or near the time the actor witnesses or is a
2004 victim of any of the offenses, or an attempt to commit any of the offenses, described in
2005 Subsection 76-5d-202(4), and the actor reports the offense or attempt to law
2006 enforcement in good faith.

2007 (7)(a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law
2008 enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).

2009 (b) A child engaged in commercial sex or sexual solicitation shall be referred to the
2010 Division of Child and Family Services for services and may not be subjected to
2011 delinquency proceedings.

2012 Section 30. Section **76-14-202** is amended to read:

2013 **76-14-202 . Detention or arrest -- Determination of immigration status.**

2014 (1)(a) Except as provided in Subsection (1)(b), (c), or (d), a law enforcement officer
2015 who, acting in the enforcement of a state law or local ordinance, conducts a lawful
2016 stop, detention, or arrest of an individual as specified in Subsection (1)(a)(i) or (ii),
2017 and the individual is unable to provide to the law enforcement officer a document
2018 listed in Subsection 76-14-203(1) and the law enforcement officer is otherwise
2019 unable to verify the identity of the individual, the law enforcement officer:

2020 (i) shall request verification of the citizenship or the immigration status of the
2021 individual under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b),
2022 (c), or (d), if the individual is arrested for an alleged offense that is a class A
2023 misdemeanor or a felony; and

2024 (ii) may attempt to verify the immigration status of the individual, except as
2025 exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or
2026 C misdemeanor, except that if the individual is arrested and booked for a class B
2027 or C misdemeanor, the arresting law enforcement officer or the law enforcement
2028 agency booking the individual shall attempt to verify the immigration status of the
2029 individual.

2030 (b) In individual cases, the law enforcement officer may forego the verification of
2031 immigration status under Subsection (1)(a) if the determination could hinder or
2032 obstruct a criminal investigation.

2033 (c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a
2034 school resource officer for an elementary or secondary school.

2035 (d) Subsection (1)(a) does not apply to a county or municipality when it has only one
2036 law enforcement officer on duty and response support from another law enforcement

2037 agency is not available.

2038 (2) When a law enforcement officer makes a lawful stop, detention, or arrest under
2039 Subsection (1) of the operator of a vehicle, and while investigating or processing the
2040 primary offense, the law enforcement officer makes observations that give the law
2041 enforcement officer reasonable suspicion that the operator or any of the passengers in
2042 the vehicle are violating Section 76-5-308, 76-5-308.1, [76-5-308.3,]76-5-308.5,
2043 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,
2044 or 76-14-209, which concern smuggling, human trafficking, or transporting illegal
2045 aliens, the law enforcement officer shall, to the extent possible within a reasonable
2046 period of time:
2047 (a) detain the occupants of the vehicle to investigate the suspected violations; and
2048 (b) inquire regarding the immigration status of the occupants of the vehicle.
2049 (3) When an individual under Subsection (1) is arrested or booked into a jail, juvenile
2050 detention facility, or correctional facility, the arresting officer or the booking officer
2051 shall ensure that a request for verification of immigration status of the arrested or
2052 booked individual is submitted as promptly as is reasonably possible.
2053 (4) The law enforcement agency that has custody of an individual verified to be an illegal
2054 alien shall request that the United States Department of Homeland Security issue a
2055 detainer requesting transfer of the illegal alien into federal custody.
2056 (5) A law enforcement officer may not consider race, color, or national origin in
2057 implementing this section, except to the extent permitted by the constitutions of the
2058 United States and this state.

2059 Section 31. Section **76-17-401** is amended to read:

2060 **76-17-401 . Definitions.**

2061 As used in this part:

2062 (1)(a) "Enterprise" means an individual, sole proprietorship, partnership, corporation,
2063 business trust, association, or other legal entity, and a union or group of individuals
2064 associated in fact although not a legal entity.
2065 (b) "Enterprise" includes illicit as well as licit entities.
2066 (2) "Pattern of unlawful activity" means engaging in conduct that constitutes the
2067 commission of at least three episodes of unlawful activity, which episodes are not
2068 isolated, but have the same or similar purposes, results, participants, victims, or methods
2069 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
2070 together, the episodes shall demonstrate continuing unlawful conduct and be related

2071 either to each other or to the enterprise. At least one of the episodes comprising a
2072 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
2073 constituting part of a pattern of unlawful activity as defined by this part shall have
2074 occurred within five years of the commission of the next preceding act alleged as part of
2075 the pattern.

2076 (3) "Person" includes an individual or entity capable of holding a legal or beneficial interest
2077 in property, including state, county, and local governmental entities.

2078 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
2079 encourage, or intentionally aid another person to engage in conduct that would constitute
2080 an offense described by the following crimes or categories of crimes, or to attempt or
2081 conspire to engage in an act that would constitute any of those offenses, regardless of
2082 whether the act is in fact charged or indicted by an authority or is classified as a
2083 misdemeanor or a felony:

2084 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
2085 Recording Practices Act;

2086 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
2087 Code, Sections 19-1-101 through 19-7-109;

2088 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
2089 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
2090 Section 23A-5-311;

2091 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
2092 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

2093 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
2094 Offenses and Procedure Act;

2095 (f) unlawful marking of pistol or revolver under Section 53-5a-105;

2096 (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;

2097 (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
2098 Uniform Land Sales Practices Act;

2099 (i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
2100 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
2101 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
2102 Chapter 37d, Clandestine Drug Lab Act;

2103 (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
2104 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 Seetion 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 Seetion 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 [ee] (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~~] (~~aaaa~~) retaliation against a witness, victim, or informant under Section
2190 76-8-508.3;

2191 [~~xxx~~] (~~bbbb~~) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

2192 [~~yyy~~] (~~cccc~~) extortion or bribery to dismiss a criminal proceeding under Section
2193 76-8-509;

2194 [~~zzz~~] (~~dddd~~) tampering with evidence under Section 76-8-510.5;

2195 [~~aaaa~~] (~~eeee~~) 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 [~~bbbb~~] (~~ffff~~) public assistance fraud by an applicant for public assistance under Section
2199 76-8-1203.1;

2200 [~~eeee~~] (~~gggg~~) 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 [~~eeee~~] (~~iii~~) fraudulently misappropriating public assistance funds under Section
2204 76-8-1203.7;

2205 [~~ffff~~] (~~jjj~~) false statement to obtain or increase unemployment compensation under
2206 Section 76-8-1301;

2207 [~~eeee~~] (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 [~~eeee~~] (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 [~~www~~] (aaaaa) permitting gambling under Section 76-9-1403;

2240 [~~xxxx~~] (bbbbbb) online gambling prohibition under Section 76-9-1404;

2241 [yyyyy] (cccccc) gambling promotion under Section 76-9-1405;
2242 [zzzzz] (ddddd) gambling fraud under Section 76-9-1406;
2243 [aaaaaa] (eeeeee) possessing a gambling device or record under Section 76-9-1407;
2244 [bbbbbb] (ffffff) obtaining a benefit from a confidence game under Section 76-9-1410;
2245 [eeeeee] (gggggg) distributing pornographic material under Section 76-5c-202;
2246 [ddddd] (hhhhh) aiding or abetting a minor in distributing pornographic material under
2247 Section 76-5c-203;
2248 [eeeeee] (iiiiii) inducing acceptance of pornographic material under Section 76-5c-204;
2249 [ffffff] (jjjjjj) distributing material harmful to minors under Section 76-5c-205;
2250 [gggggg] (kkkkkk) aiding or abetting a minor in distributing material harmful to minors
2251 under Section 76-5c-206;
2252 [hhhhhh] (llllll) distribution of a pornographic file for exhibition under Section 76-5c-305;
2253 [iiiiii] (mmmmmm) indecent public display in the presence of a minor under Section
2254 76-5c-207;
2255 [jjjjjj] (nnnnnn) engaging in prostitution under Section 76-5d-202;
2256 [kkkkkk] (oooooo) aiding prostitution under Section 76-5d-206;
2257 [HHHH] (pppppp) exploiting prostitution under Section 76-5d-207;
2258 [mmmmmm] (qqqqqq) aggravated exploitation of prostitution under Section 76-5d-208;
2259 [nnnnnn] (rrrrrr) communications fraud under Section 76-6-525;
2260 [oooooooo] (ssssss) possession of a dangerous weapon with criminal intent under Section
2261 76-11-208;
2262 [pppppp] (tttttt) an act prohibited by the criminal provisions of Chapter 9, Part 16, Money
2263 Laundering and Currency Transaction Reporting;
2264 [qqqqqq] (uuuuuu) vehicle compartment for contraband under Section 76-9-1902 or
2265 76-9-1903;
2266 [rrrrrr] (vvvvvv) an act prohibited by the criminal provisions of the laws governing
2267 taxation in this state; or
2268 [ssssss] (wwwwww) 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.

2309 (2) When a law enforcement agency is investigating a sexual offense against a minor, an
2310 offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under
2311 Section 76-5-301.1, and has reasonable suspicion that an electronic communications
2312 system or service or remote computing service has been used in the commission of a
2313 criminal offense, a law enforcement agent shall:

2314 (a) articulate specific facts showing reasonable grounds to believe that the records or
2315 other information sought, as designated in Subsections (2)(c)(i) through (v), are
2316 relevant and material to an ongoing investigation;

2317 (b) present the request to a prosecutor for review and authorization to proceed; and

2318 (c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec.
2319 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or
2320 remote computing service provider that owns or controls the Internet protocol
2321 address, websites, email address, or service to a specific telephone number, requiring
2322 the production of the following information, if available, upon providing in the court
2323 order the Internet protocol address, email address, telephone number, or other
2324 identifier, and the dates and times the address, telephone number, or other identifier
2325 is suspected of being used in the commission of the offense:
2326 (i) names of subscribers, service customers, and users;
2327 (ii) addresses of subscribers, service customers, and users;
2328 (iii) records of session times and durations;
2329 (iv) length of service, including the start date and types of service utilized; and
2330 (v) telephone or other instrument subscriber numbers or other subscriber identifiers,
2331 including a temporarily assigned network address.

2332 (3) A court order issued under this section shall state that the electronic communications
2333 system or service or remote computing service provider shall produce a record under
2334 Subsections (2)(c)(i) through (v) that is reasonably relevant to the investigation of the
2335 suspected criminal activity or offense as described in the court order.

2336 (4)(a) An electronic communications system or service or remote computing service
2337 provider that provides information in response to a court order issued under this
2338 section may charge a fee, not to exceed the actual cost, for providing the information.
2339 (b) The law enforcement agency conducting the investigation shall pay the fee.

2340 (5) The electronic communications system or service or remote computing service provider
2341 served with or responding to the court order may not disclose the court order to the
2342 account holder identified pursuant to the court order for a period of 90 days.

2343 (6) If the electronic communications system or service or remote computing service
2344 provider served with the court order does not own or control the Internet protocol
2345 address, websites, or email address, or provide service for the telephone number that is
2346 the subject of the court order, the provider shall notify the investigating law enforcement
2347 agency that the provider does not have the information.

2348 (7) There is no cause of action against a provider or wire or electronic communication
2349 service, or the provider or service's officers, employees, agents, or other specified
2350 persons, for providing information, facilities, or assistance in accordance with the terms
2351 of the court order issued under this section or statutory authorization.

2352 (8)(a) A court order issued under this section is subject to the provisions of [Title 77,
2353 Chapter 23b, ~~Access to Electronic Communications~~] Chapter 23b, Access to
2354 Electronic Communications.

2355 (b) Rights and remedies for providers and subscribers under [Title 77, Chapter 23b,
2356 ~~Access to Electronic Communications~~] Chapter 23b, Access to Electronic
2357 Communications, apply to providers and subscribers subject to a court order issued
2358 under this section.

2359 (9) A prosecutorial agency shall annually on or before February 15 report to the
2360 Commission on Criminal and Juvenile Justice:
2361 (a) the number of requests for court orders authorized by the prosecutorial agency;
2362 (b) the number of orders issued by the court and the criminal offense, pursuant to
2363 Subsection (2), each order was used to investigate; and
2364 (c) if the court order led to criminal charges being filed, the type and number of offenses
2365 charged.

2366 Section 33. Section **77-23a-8** is amended to read:

2367 **77-23a-8 . Court order to authorize or approve interception -- Procedure.**

2368 (1) The attorney general of the state, any assistant attorney general specially designated by
2369 the attorney general, any county attorney, district attorney, deputy county attorney, or
2370 deputy district attorney specially designated by the county attorney or by the district
2371 attorney, may authorize an application to a judge of competent jurisdiction for an order
2372 for an interception of wire, electronic, or oral communications by any law enforcement
2373 agency of the state, the federal government or of any political subdivision of the state
2374 that is responsible for investigating the type of offense for which the application is made.

2375 (2) The judge may grant the order in conformity with the required procedures when the
2376 interception sought may provide or has provided evidence of the commission of:

2377 (a) an act:

2378 (i) prohibited by the criminal provisions of:

2379 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

2380 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

2381 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

2382 (ii) punishable by a term of imprisonment of more than one year;

2383 (b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform

2384 Securities Act, and punishable by a term of imprisonment of more than one year;

2385 (c) an offense:

2386 (i) of:

2387 (A) attempt under Section 76-4-101;

2388 (B) conspiracy under Section 76-4-201;

2389 (C) criminal solicitation of an adult, Section 76-4-203; or

2390 (D) criminal solicitation of a minor, Section 76-4-205; and

2391 (ii) punishable by a term of imprisonment of more than one year;

2392 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of

2393 more than one year under Section 76-5-107.3;

2394 (e)(i) aggravated murder under Section 76-5-202;

2395 (ii) murder under Section 76-5-203; or

2396 (iii) manslaughter under Section 76-5-205;

2397 (f)(i) kidnapping under Section 76-5-301;

2398 (ii) child kidnapping under Section 76-5-301.1;

2399 (iii) aggravated kidnapping under Section 76-5-302;

2400 (iv) human trafficking for labor under Section 76-5-308;

2401 (v) human trafficking for commercial sexual exploitation under Section 76-5-308.1;

2402 (vi) human trafficking of a child for labor under Section 76-5-308.5;

2403 (vii) human trafficking of a child for commercial sexual exploitation under Section

2404 76-5-308.6;

2405 [(vii) human smuggling under Section 76-5-308.3;]

2406 (viii) aggravated human trafficking for labor under Section 76-5-310; [or]

2407 (ix) aggravated human trafficking for commercial sexual exploitation under Section

2408 76-5-310.2;

2409 (x) human trafficking of a vulnerable adult for labor under Section 76-5-311;

2410 (xi) human trafficking of a vulnerable adult for commercial sexual exploitation

- 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

2479 (tt) reporting by a person engaged in a trade or business when the offense is punishable
2480 by a maximum term of imprisonment of more than one year under Section 76-9-1604.

2481 Section 34. Section **77-38-3** is amended to read:

2482 **77-38-3 . Notification to victims -- Initial notice, election to receive subsequent
2483 notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact
2484 order.**

2485 (1) Within seven days after the day on which felony criminal charges are filed against a
2486 defendant, the prosecuting agency shall provide an initial notice to reasonably
2487 identifiable and locatable victims of the crime contained in the charges, except as
2488 otherwise provided in this chapter.

2489 (2) The initial notice to the victim of a crime shall provide information about electing to
2490 receive notice of subsequent important criminal justice hearings listed in Subsections
2491 77-38-2(5)(a) through (g) and rights under this chapter.

2492 (3) The prosecuting agency shall provide notice to a victim of a crime:

2493 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)
2494 through (g), which the victim has requested; and

2495 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.

2496 (4)(a) The responsible prosecuting agency may provide initial and subsequent notices in
2497 any reasonable manner, including telephonically, electronically, orally, or by means
2498 of a letter or form prepared for this purpose.

2499 (b) In the event of an unforeseen important criminal justice hearing, described in
2500 Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a
2501 good faith attempt to contact the victim by telephone shall be considered sufficient
2502 notice, provided that the prosecuting agency subsequently notifies the victim of the
2503 result of the proceeding.

2504 (5)(a) The court shall take reasonable measures to ensure that its scheduling practices for
2505 the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an
2506 opportunity for victims of crimes to be notified.

2507 (b) The court shall consider whether any notification system that the court might use to
2508 provide notice of judicial proceedings to defendants could be used to provide notice
2509 of judicial proceedings to victims of crimes.

2510 (6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole
2511 created in Section 64-14-202, shall give notice to the responsible prosecuting agency of
2512 any motion for modification of any determination made at any of the important criminal

2513 justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any
2514 requested court hearing or action so that the prosecuting agency may comply with the
2515 prosecuting agency's notification obligation.

2516 (7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and
2517 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).
2518 (b) The board may provide notice in any reasonable manner, including telephonically,
2519 electronically, orally, or by means of a letter or form prepared for this purpose.
2520 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to
2521 a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g)
2522 only where the victim has responded to the initial notice, requested notice of subsequent
2523 proceedings, and provided a current address and telephone number if applicable.
2524 (9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a
2525 victim who seeks restitution and notice of restitution hearings shall provide the court
2526 with the victim's current address and telephone number.
2527 (10)(a) Law enforcement and criminal justice agencies shall refer any requests for notice
2528 or information about crime victim rights from victims to the responsible prosecuting
2529 agency.
2530 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
2531 prosecuting agency shall forward any request for notice the prosecuting agency has
2532 received from a victim to the Board of Pardons and Parole.
2533 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting
2534 agency may send any notices required under this chapter in the prosecuting agency's
2535 discretion to a representative sample of the victims.
2536 (12)(a) A victim's address, telephone number, and victim impact statement maintained
2537 by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile
2538 Justice and Youth Services, Department of Corrections, Utah State Courts, and Board
2539 of Pardons and Parole, for purposes of providing notice under this section, are
2540 classified as protected under Subsection 63G-2-305(10).
2541 (b) The victim's address, telephone number, and victim impact statement is available
2542 only to the following persons or entities in the performance of their duties:
2543 (i) a law enforcement agency, including the prosecuting agency;
2544 (ii) a victims' right committee as provided in Section 77-37-5;
2545 (iii) a governmentally sponsored victim or witness program;
2546 (iv) the Department of Corrections;

2547 (v) the Utah Office for Victims of Crime;

2548 (vi) the Commission on Criminal and Juvenile Justice;

2549 (vii) the Utah State Courts; and

2550 (viii) the Board of Pardons and Parole.

2551 (13) The notice provisions as provided in this section do not apply to misdemeanors as
2552 provided in Section 77-38-5 and to important juvenile justice hearings as provided in
2553 Section 77-38-2.

2554 (14)(a) When a defendant is charged with a felony crime under Sections 76-5-301
2555 through [76-5-310.1] 76-5-317 regarding kidnapping, human trafficking, and human
2556 smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or
2557 Section 76-5d-208 regarding aggravated exploitation of prostitution, the court may,
2558 during any court hearing where the defendant is present, issue a pretrial criminal no
2559 contact order:

2560 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
2561 communicating with the victim directly or through a third party;

2562 (ii) ordering the defendant to stay away from the residence, school, place of
2563 employment of the victim, and the premises of any of these, or any specified place
2564 frequented by the victim or any designated family member of the victim directly
2565 or through a third party; and

2566 (iii) ordering any other relief that the court considers necessary to protect and provide
2567 for the safety of the victim and any designated family or household member of the
2568 victim.

2569 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
2570 third degree felony.

2571 (c)(i) The court shall provide to the victim a certified copy of any pretrial criminal no
2572 contact order that has been issued if the victim can be located with reasonable
2573 effort.

2574 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
2575 domestic violence network in accordance with Section 78B-7-113.

2576 (15)(a) When a case involving a victim may resolve before trial with a plea deal, the
2577 prosecutor shall notify the victim of that possibility as soon as practicable.

2578 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
2579 explain the available details of an anticipated plea deal.

2580 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.

2615 (13) "Program" means the Safe at Home Program created in Section 77-38-602.

2616 (14) "Program assistant" means an individual designated by the commission under Section

2617 77-38-604 to assist an applicant or program participant.

2618 (15) "Program participant" means an individual who is enrolled under Section 77-38-606 by

2619 the commission to participate in the program.

2620 (16) "Record" means the same as that term is defined in Section 63G-2-103.

2621 (17)(a) "Sexual offense" means:

2622 (i) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

2623 (ii) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual

2624 Exploitation.

2625 (b) "Sexual offense" does not include an offense under:

2626 (i) Section 76-5-417, enticing a minor;

2627 (ii) Section 76-5-418, sexual battery;

2628 (iii) Section 76-5-419, lewdness;

2629 (iv) Section 76-5-420, lewdness involving a child; or

2630 (v) Section 76-5b-206, failure to report child sexual abuse material by a computer

2631 technician.

2632 (18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

2633 (19) "State or local government entity" means a county, municipality, higher education

2634 institution, special district, special service district, or any other political subdivision of

2635 the state or an administrative subunit of the executive, legislative, or judicial branch of

2636 this state, including:

2637 (a) a law enforcement entity or any other investigative entity, agency, department,

2638 division, bureau, board, or commission; or

2639 (b) an individual acting or purporting to act for or on behalf of a state or local entity,

2640 including an elected or appointed public official.

2641 (20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or

2642 sexual assault.

2643 Section 36. Section **78B-3-113** is amended to read:

2644 **78B-3-113 . Right of action for a victim of a human trafficking offense.**

2645 (1) As used in this section:

2646 (a) "Human trafficking offense" means an offense for:

2647 (i) human trafficking for labor under Section 76-5-308;

2648 (ii) human trafficking for commercial sexual exploitation under Section 76-5-308.1;

2649 [(iii) human smuggling under Section 76-5-308.3;]
2650 [(iv)] (iii) human trafficking of a child for labor under Section 76-5-308.5;
2651 (iv) human trafficking of a child for commercial sexual exploitation under Section
2652 76-5-308.6;
2653 (v) aggravated human trafficking for labor under Section 76-5-310;
2654 (vi) aggravated human trafficking for commercial sexual exploitation under Section
2655 76-5-310.2;
2656 (vii) human trafficking of a vulnerable adult for labor under Section 76-5-311;
2657 (viii) human trafficking of a vulnerable adult for commercial sexual exploitation
2658 under Section 76-5-312;
2659 (ix) patronizing a victim of human labor trafficking under Section 76-5-313;
2660 (x) patronizing a child victim of human labor trafficking under Section 76-5-314;
2661 (xi) patronizing a vulnerable adult victim of human labor trafficking under Section
2662 76-5-315;
2663 (xii) human smuggling under Section 76-5-316; or
2664 [(vi)] (xiii) aggravated human smuggling under Section [76-5-310.1; or] 76-5-317.
2665 (vii) benefitting from human trafficking under Section 76-5-309.]

2666 (b) "Victim" means an individual against whom a human trafficking offense has been
2667 committed.

2668 (2) A victim has a right of action against a person that committed a human trafficking
2669 offense against the victim to recover:

2670 (a) actual damages, compensatory damages, punitive damages, injunctive relief, or any
2671 other appropriate relief for the human trafficking offense; and

2672 (b) treble damages on proof of actual damages for the human trafficking offense if the
2673 court finds that the person's acts were willful and malicious.

2674 (3) Notwithstanding any other statute of limitation or repose that may be applicable to an
2675 action described in this section, a victim may only bring an action described in this
2676 section within 10 years after the later of:

2677 (a) the day on which the victim was freed from the human trafficking or human
2678 smuggling situation;

2679 (b) the day on which the victim reaches 18 years old; or

2680 (c) if the victim was unable to bring an action due to a disability, the day on which the
2681 victim's disability ends.

2682 (4) The time period described in Subsection (3) is tolled during a period of time when the

2683 victim fails to bring an action due to the person:
2684 (a) inducing the victim to delay filing the action;
2685 (b) preventing the victim from filing the action; or
2686 (c) threatening and causing duress upon the victim in order to prevent the victim from
2687 filing the action.

2688 (5) The court shall credit any restitution paid by the person to the victim as described in
2689 Subsection 77-38b-303(5)(b).

2690 (6) The court shall award reasonable attorney fees and costs as described in Subsection
2691 77-38b-303(7) in an action brought under this section.

2692 (7)(a) Notwithstanding Chapter 3a, Venue for Civil Actions, a victim shall bring an
2693 action under this section in the county in which:

- 2694 (i) the human trafficking offense occurred;
- 2695 (ii) the victim resides; or
- 2696 (iii) the defendant resides at the commencement of the action.

2697 (b) If the defendant is a business organization as defined in Section 78B-3a-101, the
2698 residence of the business organization is as described in Section 78B-3a-104.

2699 (8) If the victim is deceased or otherwise unable to represent the victim's own interests in
2700 the action, a legal guardian, family member, representative of the victim, or court
2701 appointee may bring an action under this section on behalf of the victim.

2702 (9) This section does not preclude any other remedy available to the victim under the laws
2703 of this state or under federal law.

2704 Section 37. Section **78B-7-201** is amended to read:

2705 **78B-7-201 . Definitions.**

2706 As used in this chapter:

2707 (1) "Abuse" means:

- 2708 (a) physical abuse;
- 2709 (b) sexual abuse;
- 2710 (c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or
- 2711 (d) human trafficking of a child for commercial sexual exploitation under Section [
2712 ~~76-5-308.5~~] 76-5-308.6.

2713 (2) "Child protective order" means an order issued under this part after a hearing on the
2714 petition, of which the petitioner and respondent have been given notice.

2715 (3) "Court" means the district court or juvenile court.

2716 (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.

2853 (26) "Developmental immaturity" means incomplete development in one or more domains
2854 that manifests as a functional limitation in the minor's present ability to:
2855 (a) consult with counsel with a reasonable degree of rational understanding; and
2856 (b) have a rational as well as factual understanding of the proceedings.

2857 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
2858 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

2859 (28) "Educational neglect" means that, after receiving a notice of compulsory education
2860 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
2861 effort to ensure that the child receives an appropriate education.

2862 (29) "Educational series" means an evidence-based instructional series:
2863 (a) obtained at a substance abuse program that is approved by the Division of Integrated
2864 Healthcare in accordance with Section 26B-5-104; and
2865 (b) designed to prevent substance use or the onset of a mental health disorder.

2866 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.

2867 (31) "Evidence-based" means a program or practice that has had multiple randomized
2868 control studies or a meta-analysis demonstrating that the program or practice is effective
2869 for a specific population or has been rated as effective by a standardized program
2870 evaluation tool.

2871 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

2872 (33) "Formal probation" means a minor is:
2873 (a) supervised in the community by, and reports to, a juvenile probation officer or an
2874 agency designated by the juvenile court; and
2875 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

2876 (34) "Gender identity" means the same as that term is defined in Section 34A-5-102.

2877 (35) "Group rehabilitation therapy" means psychological and social counseling of one or
2878 more individuals in the group, depending upon the recommendation of the therapist.

2879 (36) "Guardian" means a person appointed by a court to make decisions regarding a minor,
2880 including the authority to consent to:
2881 (a) marriage;
2882 (b) enlistment in the armed forces;
2883 (c) major medical, surgical, or psychiatric treatment; or
2884 (d) legal custody, if legal custody is not vested in another individual, agency, or
2885 institution.

2886 (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.

2921 (47) "Intellectual disability" means a significant subaverage general intellectual functioning
2922 existing concurrently with deficits in adaptive behavior that constitutes a substantial
2923 limitation to the individual's ability to function in society.

2924 (48) "Juvenile offender" means:
2925 (a) a serious youth offender; or
2926 (b) a youth offender.

2927 (49) "Juvenile probation officer" means a probation officer appointed under Section
2928 78A-6-205.

2929 (50) "Juvenile receiving center" means a nonsecure, nonresidential program established by
2930 the Division of Juvenile Justice and Youth Services, or under contract with the Division
2931 of Juvenile Justice and Youth Services, that is responsible for minors taken into
2932 temporary custody under Section 80-6-201.

2933 (51) "Legal custody" means a relationship embodying:
2934 (a) the right to physical custody of the minor;
2935 (b) the right and duty to protect, train, and discipline the minor;
2936 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
2937 medical care;
2938 (d) the right to determine where and with whom the minor shall live; and
2939 (e) the right, in an emergency, to authorize surgery or other extraordinary[-] care.

2940 (52) "Licensing Information System" means the Licensing Information System maintained
2941 by the Division of Child and Family Services under Section 80-2-1002.

2942 (53) "Management Information System" means the Management Information System
2943 developed by the Division of Child and Family Services under Section 80-2-1001.

2944 (54) "Mental illness" means:
2945 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
2946 behavioral, or related functioning; or
2947 (b) the same as that term is defined in:
2948 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
2949 published by the American Psychiatric Association; or
2950 (ii) the current edition of the International Statistical Classification of Diseases and
2951 Related Health Problems.

2952 (55) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
2953 (a) a child; or
2954 (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.

3023 (65)(a) "Probation" means a legal status created by court order, following an
3024 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
3025 minor's home under prescribed conditions.

3026 (b) "Probation" includes intake probation or formal probation.

3027 (66) "Prosecuting attorney" means:

3028 (a) the attorney general and any assistant attorney general;

3029 (b) any district attorney or deputy district attorney;

3030 (c) any county attorney or assistant county attorney; and

3031 (d) any other attorney authorized to commence an action on behalf of the state.

3032 (67) "Protective custody" means the shelter of a child by the Division of Child and Family
3033 Services from the time the child is removed from the home until the earlier of:

3034 (a) the day on which the shelter hearing is held under Section 80-3-301; or

3035 (b) the day on which the child is returned home.

3036 (68) "Protective services" means expedited services that are provided:

3037 (a) in response to evidence of neglect, abuse, or dependency of a child;

3038 (b) to a cohabitant who is neglecting or abusing a child, in order to:

3039 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
3040 causes of neglect or abuse; and

3041 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

3042 (c) in cases where the child's welfare is endangered:

3043 (i) to bring the situation to the attention of the appropriate juvenile court and law
3044 enforcement agency;

3045 (ii) to cause a protective order to be issued for the protection of the child, when
3046 appropriate; and

3047 (iii) to protect the child from the circumstances that endanger the child's welfare
3048 including, when appropriate:

3049 (A) removal from the child's home;

3050 (B) placement in substitute care; and

3051 (C) petitioning the court for termination of parental rights.

3052 (69) "Protective supervision" means a legal status created by court order, following an
3053 adjudication on the ground of abuse, neglect, or dependency, whereby:

3054 (a) the minor is permitted to remain in the minor's home; and

3055 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
3056 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

3193 case, that abuse, neglect, or dependency occurred.

3194 (89) "Substitute care" means:

3195 (a) the placement of a minor in a family home, group care facility, or other placement
3196 outside the minor's own home, either at the request of a parent or other responsible
3197 relative, or upon court order, when it is determined that continuation of care in the
3198 minor's own home would be contrary to the minor's welfare;

3199 (b) services provided for a minor in the protective custody of the Division of Child and
3200 Family Services, or a minor in the temporary custody or custody of the Division of
3201 Child and Family Services, as those terms are defined in Section 80-2-102; or

3202 (c) the licensing and supervision of a substitute care facility.

3203 (90) "Supported" means a finding by the Division of Child and Family Services based on
3204 the evidence available at the completion of an investigation, and separate consideration
3205 of each allegation made or identified during the investigation, that there is a reasonable
3206 basis to conclude that abuse, neglect, or dependency occurred.

3207 (91) "Termination of parental rights" means the permanent elimination of all parental rights
3208 and duties, including residual parental rights and duties, by court order.

3209 (92) "Therapist" means:

3210 (a) an individual employed by a state division or agency for the purpose of conducting
3211 psychological treatment and counseling of a minor in the division's or agency's
3212 custody; or

3213 (b) any other individual licensed or approved by the state for the purpose of conducting
3214 psychological treatment and counseling.

3215 (93) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that
3216 the child is at an unreasonable risk of harm or neglect.

3217 (94) "Torture" means:

3218 (a) the infliction of a serious injury upon a child in an exceptionally cruel or
3219 exceptionally depraved manner that causes the child to experience extreme physical
3220 or psychological pain or anguish; or

3221 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part
3222 of a course of conduct or over a prolonged period of time.

3223 (95) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

3224 (a) results in behavior that is beyond the control or ability of the child, or the parent or
3225 guardian, to manage effectively;

3226 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or

3227 (c) results in the situations described in Subsections (95)(a) and (b).

3228 (96) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
3229 conclude that abuse, neglect, or dependency occurred.

3230 (97) "Unsupported" means a finding by the Division of Child and Family Services at the
3231 completion of an investigation, after the day on which the Division of Child and Family
3232 Services concludes the alleged abuse, neglect, or dependency is not without merit, that
3233 there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

3234 (98) "Validated risk and needs assessment" means an evidence-based tool that assesses a
3235 minor's risk of reoffending and a minor's criminogenic needs.

3236 (99) "Without merit" means a finding at the completion of an investigation by the Division
3237 of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or
3238 dependency did not occur, or that the alleged perpetrator was not responsible for the
3239 abuse, neglect, or dependency.

3240 (100) "Youth offender" means an individual who is:

3241 (a) at least 12 years old, but under 21 years old; and

3242 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
3243 Services for secure care under Sections 80-6-703 and 80-6-705.

3244 Section 40. Section **80-2-301** is amended to read:

3245 **80-2-301 . Division responsibilities.**

3246 (1) The division is the child, youth, and family services authority of the state.

3247 (2) The division shall:

3248 (a) administer services to minors and families, including:

3249 (i) child welfare services;

3250 (ii) domestic violence services; and

3251 (iii) all other responsibilities that the Legislature or the executive director of the
3252 department may assign to the division;

3253 (b) provide the following services:

3254 (i) financial and other assistance to an individual adopting a child with special needs
3255 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division
3256 would provide for the child as a legal ward of the state;

3257 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
3258 including:

3259 (A) services designed to prevent family break-up; and

3260 (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

- a court-ordered drug screening test;
- (o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:
 - (i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;
 - (ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and
 - (iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i);
- (p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and
- (q) perform other duties and functions required by law.

(a) The division may provide, directly or through contract, services that include the following:

- (i) adoptions;
- (ii) day-care services;
- (iii) out-of-home placements for minors;
- (iv) health-related services;
- (v) homemaking services;
- (vi) home management services;
- (vii) protective services for minors;
- (viii) transportation services; or
- (ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(a) The division may:

- (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

3431 primary permanency plan, the juvenile court shall conduct a permanency hearing in
3432 accordance with Section 80-3-409 on or before the earlier of:

3433 (i) 30 days after the day on which the juvenile court makes the determination
3434 described in this Subsection (3)(c); or
3435 (ii) the day on which the provision of reunification services, described in Section
3436 80-3-409, ends.

3437 (4)(a) Because of the state's interest in and responsibility to protect and provide
3438 permanency for minors who are abused, neglected, or dependent, the Legislature
3439 finds that a parent's interest in receiving reunification services is limited.

3440 (b) The juvenile court may determine that:

3441 (i) efforts to reunify a minor with the minor's family are not reasonable or
3442 appropriate, based on the individual circumstances; and
3443 (ii) reunification services should not be provided.

3444 (c) In determining reasonable efforts to be made with respect to a minor, and in making
3445 reasonable efforts, the juvenile court and the division shall consider the minor's
3446 health, safety, and welfare as the paramount concern.

3447 (d) Subject to Subsection (4)(e), the juvenile court may not determine that reunification
3448 services should not be provided solely on the basis of a parent's agreement or
3449 disagreement with the minor's:

3450 (i) assertion that the minor's gender identity is different from the minor's biological
3451 sex;
3452 (ii) practice of having or expressing a different gender identity than the child's
3453 biological sex; or
3454 (iii) sexual orientation.

3455 (e) Subsection (4)(d) does not preclude the juvenile court from determining that
3456 reunification services should not be provided if the parent's agreement or
3457 disagreement with a minor as described in Subsection (4)(d) results in or is related to
3458 harm, as that term is defined in Section 80-1-102, to the minor.

3459 (5) There is a presumption that reunification services should not be provided to a parent if
3460 the juvenile court finds, by clear and convincing evidence, that any of the following
3461 circumstances exist:

3462 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating
3463 that a reasonably diligent search has failed to locate the parent;
3464 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such

magnitude that the mental illness renders the parent incapable of utilizing reunification services;

- (c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:
 - (i) was removed from the custody of the minor's parent;
 - (ii) was subsequently returned to the custody of the parent; and
 - (iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;
- (d) the parent:
 - (i) caused the death of another minor through abuse or neglect;
 - (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
 - (A) murder or manslaughter of a minor; or
 - (B) child abuse homicide;
 - (iii) committed sexual abuse against the minor;
 - (iv) is a sex offender under Subsection 53-29-202(2)(b); or
 - (v)(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;
- (e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;
- (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;
- (g) the parent's rights are involuntarily terminated with regard to any other minor;
- (h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;
- (i) the parent has abandoned the minor for a period of six months or longer;
- (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory

operation was located;

- (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or
- (l) subject to Subsection (4)(d), the parent has subjected the minor to aggravated circumstances, including:
 - (i) a severe type of child abuse or neglect;
 - (ii) torture; or
 - (iii) human trafficking of a child as described in Section 76-5-308.5 or 76-5-308.6.

(a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

- (a) failure of the parent to respond to previous services or comply with a previous child and family plan;
- (b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;
- (c) any history of violent behavior directed at the minor or an immediate family member;
- (d) the circumstances under which the parent's rights were voluntarily terminated with regard to any other minor;
- (e) whether a parent continues to live with an individual who abused the minor;
- (f) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
- (g) testimony by a competent professional that the parent's behavior is unlikely to be 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

3567 parent-time session shall consider the impact that the parent's condition will have
3568 on the child in light of:

3569 (A) the child's fear of the parent; and
3570 (B) the nature of the alleged abuse or neglect.

3571 (10)(a) If the juvenile court determines that reunification services are appropriate, the
3572 juvenile court shall order that the division make reasonable efforts to provide services
3573 to the minor and the minor's parent for the purpose of facilitating reunification of the
3574 family, for a specified period of time.

3575 (b) In providing the services described in Subsection (10)(a), the juvenile court and the
3576 division shall consider the minor's health, safety, and welfare as the paramount
3577 concern.

3578 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe
3579 neglect are involved:

3580 (a) the juvenile court does not have any duty to order reunification services; and
3581 (b) the division does not have a duty to make reasonable efforts to or in any other way
3582 attempt to provide reunification services or attempt to rehabilitate the offending
3583 parent or parents.

3584 (12)(a) The juvenile court shall:

3585 (i) determine whether the services offered or provided by the division under the child
3586 and family plan constitute reasonable efforts on the part of the division;
3587 (ii) determine and define the responsibilities of the parent under the child and family
3588 plan in accordance with Subsection 80-3-307(5)(g)(iii); and
3589 (iii) identify verbally on the record, or in a written document provided to the parties,
3590 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting
3591 in any future determination regarding the provision of reasonable efforts, in
3592 accordance with state and federal law.

3593 (b) If the parent is in a substance use disorder treatment program, other than a certified
3594 drug court program, the juvenile court may order the parent:

3595 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection
3596 80-3-110(6), in addition to the testing recommended by the parent's substance use
3597 disorder program based on a finding of reasonable suspicion that the parent is
3598 abusing drugs or alcohol; and
3599 (ii) to provide the results of drug or alcohol testing recommended by the substance
3600 use disorder program to the juvenile court or division.

3601 (13)(a) The time period for reunification services may not exceed 12 months from the
3602 day on which the minor was initially removed from the minor's home, unless the time
3603 period is extended under Subsection 80-3-409(7).

3604 (b) This section does not entitle any parent to an entire 12 months of reunification
3605 services.

3606 (14)(a) If reunification services are ordered, the juvenile court may terminate those
3607 services at any time.

3608 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to
3609 be inconsistent with the final permanency plan for the minor established under
3610 Section 80-3-409, then measures shall be taken, in a timely manner, to:
3611 (i) place the minor in accordance with the final permanency plan; and
3612 (ii) complete whatever steps are necessary to finalize the permanent placement of the
3613 minor.

3614 (15) Any physical custody of the minor by the parent or a relative during the period
3615 described in Subsections (10) through (14) does not interrupt the running of the period.

3616 (16)(a) If reunification services are ordered, the juvenile court shall conduct a
3617 permanency hearing in accordance with Section 80-3-409 before the day on which
3618 the time period for reunification services expires.

3619 (b) The permanency hearing shall be held no later than 12 months after the original
3620 removal of the minor.

3621 (c) If reunification services are not ordered, a permanency hearing shall be conducted
3622 within 30 days in accordance with Section 80-3-409.

3623 (17) With regard to a minor in the custody of the division whose parent or parents are
3624 ordered to receive reunification services but who have abandoned that minor for a period
3625 of six months from the day on which reunification services are ordered:
3626 (a) the juvenile court shall terminate reunification services; and
3627 (b) the division shall petition the juvenile court for termination of parental rights.

3628 (18) When a minor is under the custody of the division and has been separated from a
3629 sibling due to foster care or adoptive placement, a juvenile court may order sibling
3630 visitation, subject to the division obtaining consent from the sibling's guardian,
3631 according to the juvenile court's determination of the best interests of the minor for
3632 whom the hearing is held.

3633 (19)(a) If reunification services are not ordered under this section, and the whereabouts
3634 of a parent becomes known within six months after the day on which the out-of-home

3635 placement of the minor is made, the juvenile court may order the division to provide
3636 reunification services.

3637 (b) The time limits described in this section are not tolled by the parent's absence.

3638 (20)(a) If a parent is incarcerated or institutionalized, the juvenile court shall order
3639 reasonable services unless the juvenile court determines that those services would be
3640 detrimental to the minor.

3641 (b) In making the determination described in Subsection (20)(a), the juvenile court shall
3642 consider:

3643 (i) the age of the minor;

3644 (ii) the degree of parent-child bonding;

3645 (iii) the length of the sentence;

3646 (iv) the nature of the treatment;

3647 (v) the nature of the crime or illness;

3648 (vi) the degree of detriment to the minor if services are not offered;

3649 (vii) for a minor who is 10 years old or older, the minor's attitude toward the
3650 implementation of family reunification services; and

3651 (viii) any other appropriate factors.

3652 (c) Reunification services for an incarcerated parent are subject to the time limitations
3653 imposed in this section.

3654 (d) Reunification services for an institutionalized parent are subject to the time
3655 limitations imposed in this section, unless the juvenile court determines that
3656 continued reunification services would be in the minor's best interest.

3657 Section 42. Section **81-9-402** is amended to read:

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

3659 (1)(a) In accordance with Section 80-2a-201, it is the public policy of this state that a
3660 parent retain the fundamental right and duty to exercise primary control over the care,
3661 supervision, upbringing, and education of a minor child of the parent.

3662 (b) There is a rebuttable presumption that a parent's decisions are in the minor child's
3663 best interests.

3664 (2) The presumption in Subsection (1) is rebutted and a court may grant custodial or
3665 visitation rights to an individual other than a parent if the court finds, by clear and
3666 convincing evidence, that the individual seeking custodial or visitation rights has
3667 established that:

3668 (a) the individual has intentionally assumed the role and obligations of a parent;

3669 (b) the individual and the minor child have formed a substantial emotional bond and
3670 created a parent-child type relationship;

3671 (c) the individual substantially contributed emotionally or financially to the minor child's
3672 well being;

3673 (d) the assumption of the parental role is not the result of a financially compensated
3674 surrogate care arrangement;

3675 (e) the continuation of the relationship between the individual and the minor child is in
3676 the minor child's best interest;

3677 (f) the loss or cessation of the relationship between the individual and the minor child
3678 would substantially harm the minor child; and

3679 (g) the parent:
3680 (i) is absent as of the time of filing of the petition;
3681 (ii) does not have the ability to exercise primary physical custody of the minor child
3682 as of the time of filing of the petition; or
3683 (iii) has abused or neglected the minor child, or that another court has found that the
3684 parent has abused or neglected the minor child.

3685 (3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350,
3686 an individual shall file a verified petition, or a petition supported by an affidavit, for
3687 custodial or visitation rights to the minor child in the juvenile court if a matter is pending
3688 in the juvenile court, or in the district court in the county where the minor child:
3689 (a) currently resides; or
3690 (b) lived with a parent or an individual other than a parent who acted as a parent within
3691 six months before the commencement of the action.

3692 (4) An individual may file a petition under this section in a pending divorce, parentage
3693 action, or other proceeding, including a proceeding in the juvenile court involving
3694 custody of or visitation with a minor child.

3695 (5) The petition shall include detailed facts supporting the petitioner's right to file the
3696 petition including the criteria set forth in Subsection (2) and residency information
3697 described in Section 81-11-209.

3698 (6) An individual may not file a petition under this section against a parent who is actively
3699 serving outside the state in any branch of the military.

3700 (7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the
3701 Utah Rules of Civil Procedure on all of the following:
3702 (a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

- (b) any individual who has court-ordered custody or visitation rights;
- (c) the minor child's guardian;
- (d) the guardian ad litem, if one has been appointed;
- (e) an individual or agency that has physical custody of the minor child or that claims to have custody or visitation rights; and
- (f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the minor child.

(8) The court may order a custody evaluation to be conducted in any proceeding brought under this section.

(9) The court may enter temporary orders in a proceeding brought under this section pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a minor child under this section to an individual:

- (a) who is not the parent of the minor child; and
- (b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:
 - (i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, and 76-5-114;
 - (ii) child abuse homicide, as described in Section 76-5-208;
 - (iii) child kidnapping, as described in Section 76-5-301.1;
 - (iv) human trafficking of a child for labor, as described in Section 76-5-308.5;
 - (v) human trafficking of a child for commercial sexual exploitation, as described in Section 76-5-308.6;
 - (vi) patronizing a child victim of human labor trafficking, as described in Section 76-5-314;

[~~(v)~~] (vii) sexual abuse of a minor, as described in Section 76-5-401.1;

[~~(vi)~~] (viii) rape of a child, as described in Section 76-5-402.1;

[~~(vii)~~] (ix) object rape of a child, as described in Section 76-5-402.3;

[~~(viii)~~] (x) sodomy on a child, as described in Section 76-5-403.1;

[~~(ix)~~] (xi) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

[~~(x)~~] (xii) sexual exploitation of a minor, as described in Section 76-5b-201;

[~~(xi)~~] (xiii) aggravated sexual exploitation of a minor, as described in Section

3737 76-5b-201.1; or

3738 [xii] (xiv) an offense in another state that, if committed in this state, would
3739 constitute an offense described in this Subsection (10).

3740 (11)(a) As used in this Subsection (11), "disqualifying offense" means an offense listed
3741 in Subsection (10) that prevents a court from granting custody except as provided in
3742 this Subsection (11).

3743 (b) An individual described in Subsection (10) may only be considered for custody of a
3744 minor child if the following criteria are met by clear and convincing evidence:

3745 (i) the individual is a relative, as defined in Section 80-3-102, of the minor child;
3746 (ii) at least 10 years have elapsed from the day on which the individual is
3747 successfully released from prison, jail, parole, or probation related to a
3748 disqualifying offense;

3749 (iii) during the 10 years before the day on which the individual files a petition with
3750 the court seeking custody the individual has not been convicted, plead guilty, or
3751 plead no contest to an offense greater than an infraction or traffic violation that
3752 would likely impact the health, safety, or well-being of the minor child;

3753 (iv) the individual can provide evidence of successful treatment or rehabilitation
3754 directly related to the disqualifying offense;

3755 (v) the court determines that the risk related to the disqualifying offense is unlikely to
3756 cause harm, as defined in Section 80-1-102, or potential harm to the minor child
3757 currently or at any time in the future when considering all of the following:

3758 (A) the minor child's age;

3759 (B) the minor child's gender;

3760 (C) the minor child's development;

3761 (D) the nature and seriousness of the disqualifying offense;

3762 (E) the preferences of a minor child who is 12 years old or older;

3763 (F) any available assessments, including custody evaluations, parenting
3764 assessments, psychological or mental health assessments, and bonding
3765 assessments; and

3766 (G) any other relevant information;

3767 (vi) the individual can provide evidence of the following:

3768 (A) the relationship with the minor child is of long duration;

3769 (B) that an emotional bond exists with the minor child; and

3770 (C) that custody by the individual who has committed the disqualifying offense

3771 ensures the best interests of the minor child are met;

3772 (vii)(A) there is no other responsible relative known to the court who has or likely
3773 could develop an emotional bond with the minor child and does not have a
3774 disqualifying offense; or

3775 (B) if there is a responsible relative known to the court that does not have a
3776 disqualifying offense, Subsection (11)(d) applies; and

3777 (viii) that the continuation of the relationship between the individual with the
3778 disqualifying offense and the minor child could not be sufficiently maintained
3779 through any type of visitation if custody were given to the relative with no
3780 disqualifying offense described in Subsection (11)(d).

3781 (c) The individual with the disqualifying offense bears the burden of proof regarding
3782 why placement with that individual is in the best interest of the minor child over
3783 another responsible relative or equally situated individual who does not have a
3784 disqualifying offense.

3785 (d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to
3786 the court who does not have a disqualifying offense:

3787 (i) preference for custody is given to a relative who does not have a disqualifying
3788 offense; and

3789 (ii) before the court may place custody with the individual who has the disqualifying
3790 offense over another responsible, willing, and able relative:

3791 (A) an impartial custody evaluation shall be completed; and
3792 (B) a guardian ad litem shall be assigned.

3793 (12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final
3794 decision on custody has not been made and to a case filed on or after March 25, 2017.

3795 Section 43. Section **81-13-203** is amended to read:

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

3797 (1) An adult may adopt a minor child in accordance with this section and this chapter.

3798 (2) Except as otherwise provided in this section and subject to the placement requirements
3799 described in Section 81-13-403, a minor child may be adopted by:

3800 (a) adults who are legally married to each other in accordance with the laws of this state,
3801 including adoption by a stepparent; or

3802 (b) an adult who is not married.

3803 (3) If an adult is cohabiting in a relationship that is not a legally valid and binding marriage
3804 under the laws of this state, the adult may not adopt a minor child unless the individual

3805 is a relative of the minor child or a recognized placement under the Indian Child Welfare
3806 Act, 25 U.S.C. Sec. 1901 et seq.

3807 (4) A married adult who is lawfully separated from the married adult's spouse may not
3808 adopt a minor child without the consent of the married adult's spouse if the spouse is
3809 capable of giving consent.

3810 (5) An adult may not adopt a minor child unless:

3811 (a) the adult is at least 10 years older than the minor child; or
3812 (b) at least one adult of a married couple is at least 10 years older than the minor child if
3813 a married couple is adopting the minor child.

3814 (6) Except as provided in Subsection (7), an adult may not adopt a minor child if, before
3815 adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no
3816 contest to a felony or attempted felony involving conduct that constitutes:

3817 (a) child abuse, as described in Section 76-5-109;
3818 (b) aggravated child abuse, as described in Section 76-5-109.2;
3819 (c) child abandonment, as described in Section 76-5-109.3;
3820 (d) child torture, as described in Section 76-5-109.4;
3821 (e) commission of domestic violence in the presence of a child, as described in Section
3822 76-5-114;

3823 (f) child abuse homicide, as described in Section 76-5-208;
3824 (g) child kidnapping, as described in Section 76-5-301.1;
3825 (h) human trafficking of a child for labor, as described in Section 76-5-308.5;
3826 (i) human trafficking of a child for commercial sexual exploitation, as described in
3827 Section 76-5-308.6;

3828 (j) patronizing a child victim of human labor trafficking, as described in Section
3829 76-5-314;

3830 [(i)] (k) sexual abuse of a minor, as described in Section 76-5-401.1;

3831 [(j)] (l) rape of a child, as described in Section 76-5-402.1;

3832 [(k)] (m) object rape of a child, as described in Section 76-5-402.3;

3833 [(l)] (n) sodomy on a child, as described in Section 76-5-403.1;

3834 [(m)] (o) sexual abuse of a child, as described in Section 76-5-404.1;

3835 [(n)] (p) aggravated sexual abuse of a child, as described in Section 76-5-404.3;

3836 [(o)] (q) sexual exploitation of a minor, as described in Section 76-5b-201;

3837 [(p)] (r) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1;

3838 or

3839 [¶] (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

3873 adoption; or

3874 (B) subject to Subsection (7)(d), a relative of the minor child, as defined in
3875 Section 80-3-102, and there is not another relative without a disqualifying
3876 offense filing an adoption petition.

3877 (c) The adult with the disqualifying offense bears the burden of proof regarding why
3878 adoption with that adult is in the best interest of the minor child over another
3879 responsible relative or equally situated adult who does not have a disqualifying
3880 offense.

3881 (d) If there is an alternative responsible relative who does not have a disqualifying
3882 offense filing an adoption petition:

3883 (i) preference for adoption shall be given to a relative who does not have a
3884 disqualifying offense; and

3885 (ii) before the court may grant adoption to the adult who has the disqualifying offense
3886 over another responsible, willing, and able relative:

3887 (A) an impartial custody evaluation shall be completed; and
3888 (B) a guardian ad litem shall be assigned.

3889 (8) Subsections (6) and (7) apply to a case pending on March 25, 2017, for which a final
3890 decision on adoption has not been made and to a case filed on or after March 25, 2017.

3891 **Section 44. Repealer.**

3892 This bill repeals:

3893 **Section 76-5-307, Definitions.**

3894 **Section 45. Effective Date.**

3895 This bill takes effect on May 6, 2026.