

Kirk A. Cullimore proposes the following substitute bill:

Constable Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor:

LONG TITLE

General Description:

This bill regulates the practice of a constable.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the process by which a city or county may contract with a constable;
- beginning January 1, 2027, requires that an individual contracted by a municipality or county to act as a constable hold a constable license;
- enacts the Constables Licensing Act;
- creates the Constables Licensing Board (board);
- describes the membership, duties, and powers of the board;
- describes the duties of the Division of Professional Licensing in regard to individuals who apply for or receive licensure (licensees);
- describes the minimum required qualifications to be licensed as a constable, deputy constable, or apprentice constable;
- provides an exemption from licensure for certain licensees performing certain services;
- describes unlawful and unprofessional conduct by a licensee or an unlicensed individual performing like a licensee;
- provides a disciplinary process;
- provides for state preemption of local regulation of constables; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-7-87, as enacted by Laws of Utah 2025, First Special Session, Chapter 14
17-78-601, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
17-78-602, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
17-78-603, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
17-78-604, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
17-78-605, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
17-78-606, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 14
58-1-301.5, as last amended by Laws of Utah 2025, Chapter 236
76-6-1403, as last amended by Laws of Utah 2023, Chapter 111
76-8-301, as last amended by Laws of Utah 2024, Chapter 96
78B-2-304, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-801, as last amended by Laws of Utah 2016, Chapter 264
78B-7-102, as last amended by Laws of Utah 2025, Chapters 212, 332
78B-8-302, as last amended by Laws of Utah 2025, Chapter 291
78B-8-303, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

58-91-101, Utah Code Annotated 1953
58-91-102, Utah Code Annotated 1953
58-91-103, Utah Code Annotated 1953
58-91-104, Utah Code Annotated 1953
58-91-201, Utah Code Annotated 1953
58-91-202, Utah Code Annotated 1953
58-91-301, Utah Code Annotated 1953
58-91-302, Utah Code Annotated 1953
58-91-303, Utah Code Annotated 1953
58-91-304, Utah Code Annotated 1953

63 **58-91-306**, Utah Code Annotated 1953

64 **58-91-401**, Utah Code Annotated 1953

65 **58-91-501**, Utah Code Annotated 1953

66 **58-91-502**, Utah Code Annotated 1953

67 **58-91-503**, Utah Code Annotated 1953

68 **58-91-601**, Utah Code Annotated 1953

69 RENUMBERS AND AMENDS:

70 **58-91-305**, (Renumbered from 17-78-607, as renumbered and amended by Laws of
71 Utah 2025, First Special Session, Chapter 14)

72
73 *Be it enacted by the Legislature of the state of Utah:*

74 Section 1. Section **10-7-87** is amended to read:

75 **10-7-87 . Cities authorized to contract with constables.**

76 (1) A city may~~[-appoint or]~~ contract with a constable to provide services described in Title
77 17, Chapter 78, Part 6, Constables, the same as if the city were a county.

78 (2) A constable that is ~~[appointed or]~~contracted with a city shall comply with the
79 provisions of Title 17, Chapter 78, Part 6, Constables, in regard to the city the same as if
80 the city were a county.

81 Section 2. Section **17-78-601** is amended to read:

82 **17-78-601 . County legislative body to determine whether to contract with**
83 **constables -- Contract requirements.**

84 ~~[(1)(a)(i) The legislative body of a county shall determine whether to appoint one or~~
85 ~~more constables to serve in the county.]~~

86 ~~[(ii) If a county decides to appoint constables, the county shall nominate and appoint~~
87 ~~constables in accordance with this chapter.]~~

88 ~~[(b)(i) Notwithstanding Subsection (1)(a), a constable holding office on July 1,~~
89 ~~2019, may complete the constable's term.]~~

90 ~~[(ii) A constable shall serve any subsequent terms the constable may serve in~~
91 ~~accordance with this part.]~~

92 (1) Beginning January 1, 2027, a county may not contract with a constable who is not
93 licensed under Title 58, Chapter 91, Constables Licensing Act.

94 (2) To ~~[nominate]~~ select a constable for a county contract, the legislative body of a county
95 of the first or second class shall establish a nominating commission.

96 (a) The county nominating commission shall consist of:

- (i) one member of the county legislative governing body or the member's designee;
- (ii) one judge or the judge's designee;
- (iii) the county attorney or the county attorney's designee;
- (iv) the district attorney or the district attorney's designee;
- (v) the sheriff of the county or the sheriff's designee; and
- (vi) one private citizen.
- (b) The nominating commission described in this Subsection (2) shall review each applicant's credentials and, by majority vote, recommend to the legislative governing body of the county the nominees the nominating commission finds most qualified.
- (c) The county legislative body shall either ~~[appoint]~~ select or reject any nominee that the nominating commission recommends under Subsection (2)(b).
- (3) The legislative body of a county of the third, fourth, fifth, or sixth class may ~~[appoint]~~ select a constable on a recommendation from:
- (a) the county sheriff and the county attorney; or
- (b) the chief of police.
- (4) A county legislative body that ~~[appoints]~~ selects a constable under this section ~~[may]~~ shall issue to the constable a contract including, at minimum, the following provisions:
- (a) the scope of the services the county seeks from the constable, including any deputy constables the constable hires in accordance with Section 17-78-602;
- (b) the circumstances in which the county shall indemnify the constable and deputy constables, if any;
- (c) the circumstances in which the constable shall indemnify the county, if any;
- (d) ~~[withdraw the authority of the constable for cause, including if]~~ that the county may cancel the contract for cause at any time and shall cancel the contract if:
- (i) the constable's peace officer certification is suspended or revoked under Section 53-6-211[-] ; or
- (ii) beginning January 1, 2027, the constable's license is suspended or revoked by the Division of Professional Licensing in accordance with the provisions of Title 58, Chapter 91, Constables Licensing Act;
- (e) the minimum levels of insurance coverage the county requires the constable to carry;
- (f) whether the county requires the constable to provide a bond, and if so, at what level;
- (g) the remuneration owed to the constable under the contract for services rendered to the county, if different than the fees described in this part or not otherwise set in county ordinance; and

(h) a maximum term of four years.

~~[(5) In addition to the appointment process described in Subsections (1) through (4), the legislative body of a county where a justice court exists may contract with a constable to provide services in criminal cases for the contracting governmental entity by a method and for an amount mutually agreed upon.]~~

~~[(6)(a) A contract between a county legislative body and a constable, including a contract described in Subsection (5), may not exceed four years.]~~

~~[(b) A contract described in Subsection (6)(a) may be renewed or extended for a period not to exceed four years.]~~

(5) A contract described in Subsection (4) may be renewed or extended by written amendment for up to four years per written amendment.

(6) If a county and an appointed constable fail to negotiate and execute a contract in accordance with this section, the constable may not fulfill the duties described in this part for the county.

(7) If a county terminates a contract described in Subsection (4), the county shall notify the Division of Professional Licensing.

(8) Contracting for constable services does not constitute a procurement and a county that issues a contract to a constable as described in this part is not required to comply with procurement processes described in Section 17-63-506 in regard to that contract.

Section 3. Section **17-78-602** is amended to read:

17-78-602 . Contracted constable authority and duties -- Constables to serve process in certain circumstances.

~~[(1) To qualify as a constable, an individual shall be certified as a special function peace officer in the state.]~~

~~[(2)]~~ (1)(a) A constable who has a contract with a county as described in Section 17-78-601:

(i) shall:

~~[(a)]~~ (A) avoid all conflicts of interest; and

~~[(b)]~~ (B) maintain a public office and be accessible to the public and to the court during the hours the court is open[-] ; and

(ii) may hire one or more constables to serve as the constable's deputies.

(b) Beginning July 1, 2027, a deputy constable shall be licensed under Title 58, Chapter 91, Constables Licensing Act.

(c) A deputy constable acting at the direction and general control of the constable who

holds a contract with a county, as described in Section 17-78-601, may fulfill any duty of a constable described in this part unless the action is limited in or specifically prohibited by the contract between the constable and the county.

(d) A constable may contract to provide constable services with more than one county, so long as:

(i) the constable informs each county, in writing; and

(ii) the constable is able to fulfill all the duties for each county that are described:

(A) in this part; and

(B) in any contract between the constable and a county.

~~[(3)]~~ (2) In cases where ~~[it appears in any court of record that]~~the sheriff is a party, or where an affidavit is filed with the clerk of the court stating partiality, prejudice, consanguinity, or interest on the part of the sheriff~~[;]~~ :

(a) the clerk of the court shall direct process to any licensed constable~~[of the county, whose duty it shall be to]~~ ; and

(b) the constable chosen by the clerk under Subsection (2)(a) shall execute [it] process in the same manner as if the constable were sheriff.

Section 4. Section **17-78-603** is amended to read:

17-78-603 . Activity outside a jurisdiction -- Constables to provide service to justice courts in certain circumstances -- Agent of governmental entity in certain circumstances.

~~[(1)(a) Constables appointed by a county are appointed for terms of six years and may serve more than one term if reappointed by the appointing body.]~~

~~[(b) Notwithstanding the law in place at the time a constable was appointed, the term of a constable appointed on or after July 1, 2018, expires six years after the day on which the term began.]~~

~~[(2)]~~ (1)(a) ~~[Appointed constables]~~ A constable who is serving process outside the county [in which they are appointed] with which the constable holds a contract, as described in Section 17-78-601, shall contact the sheriff's office or police department of the jurisdiction before [serving executions or]seizing any property in the jurisdiction.

(b) ~~[An appointed constable or a deputy of an appointed]~~ A constable shall notify the agency of jurisdiction by contacting the sheriff's office or police department of jurisdiction before serving a warrant of arrest in the jurisdiction.

(c) A constable that is serving process may establish a payment schedule with the individual being served in lieu of seizing the individual's property, subject to

approval from the underlying creditor, if any.

~~[(3) The appointed constable may, upon approval of the appointing county, employ and deputize persons who are certified as special function peace officers to function as deputy constables.]~~

~~[(4) If the county legislative body withdraws the authority of an appointed constable, the authority of all deputy constables employed or deputized by the appointed constable is also withdrawn.]~~

~~[(5) If the authority of a constable or deputy constable is withdrawn under Subsection (4), the county shall notify the Peace Officer Standards and Training Division of the Department of Public Safety in accordance with Section 53-6-209.]~~

~~[(6) A constable, contracted or appointed, shall:]~~

~~[(a) attend the justice courts within the constable's county when required by contract or court order; and]~~

~~[(b) execute, serve, and return all process directed or delivered to the constable by a judge of the justice court serving the county, or by any competent authority within the limits of this section.]~~

~~[(7) A constable, contracted or appointed, may:]~~

~~[(a) serve any process throughout the state; and]~~

~~[(b) carry out all other functions associated with a constable.]~~

~~[(8) A constable shall serve exclusively as an agent for:]~~

~~[(a) the government entity that has a contract with the constable;]~~

~~[(b) the county that appointed the constable; or]~~

~~[(c) the court authorizing or directing the constable.]~~

(2) A county may require a contracted constable to:

(a) attend the justice courts within the county; and

(b) execute, serve, and return all process directed or delivered to the constable by a judge of the justice court serving the county, or by any competent authority within the limits of this section.

(3) When acting under Subsection (1) or (2), or Section 17-78-605, the constable shall serve exclusively as an agent for:

(a) the county that authorizes and directs the constable's action; or

(b) the court authorizing or directing the constable's action.

(4) Notwithstanding Subsection (3):

(a) a county that contracts with a constable under this part may authorize residents of

and businesses in the county to request the constable's services in civil matters,
subject to fees described in Section 17-78-604; and

(b) a constable may take any action in a civil matter:

(i) that the constable is licensed to perform;

(ii) for a private client;

(iii) that is not prohibited by a contract described in Section 17-78-601;

(iv) does not constitute a conflict of interest; and

(v) does not interfere with the constable's duty to be accessible to the court and the
public as described in Section 17-78-602.

~~[(9) Except as otherwise provided in this part, a constable may not serve as an agent, or be~~
~~considered to be serving as an agent, for a person that is not described in Subsection (8).]~~

Section 5. Section **17-78-604** is amended to read:

17-78-604 . Constables in civil actions -- Fees for constables.

(1) ~~[Constables]~~ A constable who holds a county contract described in Section 17-78-601
may, for the constable's own use, collect as compensation in civil matters the same fees
as those specified for sheriffs in Section 17-72-304.

(2) Constable fees that exceed the amounts in Section 17-72-304 are recoverable:

(a) by the constable only if the constable ~~[has received]~~ receives prior approval for the
increased fee from the party requesting the service; and

(b) by a prevailing party as a cost of the action, ~~[only]~~ if the court finds the service and
increased fee are justifiable.

(3)(a) A county may, by resolution or ordinance, establish fees for constable services in
addition to or in excess of the fees described in Section 17-72-304.

(b) A county may:

(i) charge and collect a fee for constable services in a civil matter directly from the
county resident who requests the services and remit the fee to the constable; or

(ii) authorize the constable to directly charge and collect a fee for constable services
in a civil matter, in accordance with this section and any fees established by the
county under Subsection (3)(a).

(4) Nothing in this section prohibits a constable from charging a private client a fee in a
civil matter in which the county is not involved according to mutually agreed upon terms
between the constable and the private client, unless the fee is prohibited by another
provision of law.

Section 6. Section **17-78-605** is amended to read:

17-78-605 . Constables in criminal actions -- Fees for constables.

- (1)(a) A constable may only take action in a criminal matter:
- (i) at the direction of a county with which the constable holds a contract;
 - (ii) according to the terms of the contract between the constable and the county; and
 - (iii) after January 1, 2027, if the constable is licensed.
- (b) For purposes of Subsection (1)(a)(i), taking action at the direction of a county includes acting at the direction or request of:
- (i) the county attorney for the county;
 - (ii) the district attorney for the county;
 - (iii) the county sheriff;
 - (iv) a justice court judge in the county; or
 - (v) an individual designated in the contract between the county and the constable as an individual able to direct or request the constable's action in a criminal matter.
- (2)(a) Except as provided in [~~Subsections (3) and (6), a~~] Subsections (4) and (7), a county shall pay a contracted constable [~~shall be paid~~] in criminal matters for each copy of a summons, subpoena, notice, court order, or other criminal paper as follows:
- (i) \$5 for each defendant served; and
 - (ii) mileage of \$1 per mile for each mile necessarily traveled in going only, to be computed from [~~either~~] :
 - (A) the courthouse [~~;~~] ; or
 - (B) when transmitted by mail, from the post office where received.
- (b) If more than one trip is necessary to serve, or diligently attempt to serve, service of process, a constable may collect mileage charges for more than two trips only if the party requesting the service of process has approved the additional mileage charges.
- (c) A constable shall individually document each charge under this Subsection [~~(1)~~] (2) on the affidavit of return of service.
- [~~(2)~~] (3) If a constable serves process in a county other than the county where the process originated, travel expenses may not exceed the fee that would be charged if served by the sheriff of that county under Chapter 72, County Sheriff.
- [~~(3)~~] (4)(a) [~~A~~] A contracted constable acting under this chapter may charge a county a fee of \$1 for each mile traveled for the purpose of serving, or to diligently attempt service of, a warrant of arrest, both in going to and returning from the defendant's address.
- (b) If more than one trip is necessary to serve, or diligently attempt to serve, a warrant of

arrest, a constable may collect no more than two additional mileage charges.

(c) A constable shall individually document each charge under this Subsection ~~[(3)]~~ (4) on the affidavit of return of service.

~~[(4)]~~ (5) For arresting ~~[a prisoner]~~ an individual and bringing the ~~[prisoner]~~ individual into court, or otherwise satisfying a warrant, a constable may charge the county a fee of \$15.

~~[(5)]~~ (6) ~~[(a) Accounts against the county filed by constables for services in criminal cases shall be:]~~

~~[(i) certified as correct by the county attorney or district attorney; and]~~

~~[(ii) presented to the auditor.]~~

(a) Constables shall bill the county for services in criminal cases according to the terms of the constable's contract and this section.

(b) Upon receipt of a bill from a constable, the county attorney or district attorney shall:

(i) certify the bill if the bill is correct; and

(ii) provide the certified bill to the county auditor or finance officer.

~~[(b)]~~ (c) The county legislative body may reject constable bills in all causes or proceedings in which the county attorney or district attorney has not authorized the issuance of the warrant of arrest in writing.

~~[(6)]~~ (7) A county may, ~~[by contract with a constable, establish lower]~~ in the contract described in Section 17-78-601, establish different fees for services than the fees described in this section.

Section 7. Section **17-78-606** is amended to read:

17-78-606 . Fees for constable service of process -- Exception.

~~[(1) The rates recoverable through court action for service of process by a constable are governed by Section 17-72-304, 17-78-601, or 17-78-605, when applicable.]~~

~~[(2)]~~ (1) The legislative body of a county that contracts with a constable may set a fee by ordinance, in accordance with Section 17-64-501, for a service provided by the constable the same as the county legislative body sets fees for a county sheriff as described in Section 17-72-304.

(2) Constable fees that exceed the amounts in Section 17-72-304 are recoverable in court:

(a) by the constable only if the constable has received prior approval for the increased fee from the party requesting the service; and

(b) by a prevailing party as a cost of the action only if the court finds the service and increased fee are justifiable.

Section 8. Section **58-1-301.5** is amended to read:

**58-1-301.5 . Division access to Bureau of Criminal Identification records. --
Criminal background check requirement.**

- (1) As used in this section, "applicant" means an individual applying for licensure or certification, or with respect to a license or certification, applying for renewal, reinstatement, or relicensure or recertification, as required in:
- (a) Section 58-5a-302;
 - (b) Section 58-16a-302;
 - (c) Section 58-17b-303;
 - (d) Section 58-17b-304;
 - (e) Section 58-17b-305;
 - (f) Section 58-17b-306;
 - (g) Section 58-24b-302;
 - (h) Section 58-31b-302;
 - (i) Section 58-42a-302;
 - (j) Section 58-44a-302;
 - (k) Section 58-47b-302;
 - (l) Section 58-55-302;
 - (m) Section 58-47b-302.2;
 - (n) Section 58-60-205;
 - (o) Section 58-60-305;
 - (p) Section 58-60-405;
 - (q) Section 58-60-506;
 - (r) Section 58-61-304;
 - (s) Section 58-63-302;
 - (t) Section 58-64-302;
 - (u) Section 58-67-302;
 - (v) Section 58-68-302;
 - (w) Section 58-69-302;
 - (x) Section 58-70a-302;
 - (y) Section 58-70b-302;
 - (z) Section 58-71-302;~~[or]~~
 - (aa) Section 58-73-302~~[:]~~ ; or
 - (bb) Section 58-91-103.
- (2) The division shall have direct access to local files maintained by the Bureau of Criminal

Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of an applicant.

(3) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes:

(i) convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition; and

(ii) criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(4) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(5) To fulfill an applicable criminal background check requirement, an applicant shall:

(a) submit fingerprints in a form acceptable to the division at the time the applicant files a license application or a registration; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(6)(a) Upon receiving fingerprints from an applicant in accordance with Subsection (5), the division shall:

(i) collect from each applicant submitting fingerprints in accordance with this section:

(A) the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108; and

(B) the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprints and the fees described in Subsection (6)(a)(i) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(b) The fees described in Subsection (6)(a)(i) are in addition to other fees authorized by this chapter.

(7) In accordance with the requirements of Section 53-10-108, the Bureau of Criminal Identification shall:

- (a) check the fingerprints submitted under Subsection (5)(a) against the applicable state and regional criminal records databases;
- (b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and
- (c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(8)(a)(i) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required under this section demonstrates, after the applicant is licensed or registered, that the applicant failed to accurately disclose a criminal history, the division may provide notice to the applicant that the license or registration is immediately and automatically revoked.

- (ii) If a massage establishment owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall deny an application for registration of a massage establishment.

(b)(i) An individual whose license has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

- (ii) A registered massage establishment for which the registration has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

(c) The division shall conduct the hearing described in this Subsection (8) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 9. Section **58-91-101** is enacted to read:

CHAPTER 91. Constables Licensing Act

Part 1. General Provisions

58-91-101 . Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.
- (2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services

regulated under this chapter are available for consideration.

(3) "Applicant" means a person who has submitted to the division a completed application and all required application and processing fees.

(4) "Apprentice constable" means an individual who:

(a) is licensed as an apprentice constable under this chapter; and

(b) performs one or more of the duties described in Section 58-91-301 under the supervision of a constable.

(5) "Board" means the Constables Licensing Board established in Section 58-91-201.

(6) "Client" means a private individual or private entity that requests civil services from a licensed constable for pay.

(7) "Constable" means an individual who:

(a) is licensed as a constable under this chapter; and

(b) performs one or more of the duties described in Section 58-91-301.

(8) "Contracting governmental entity" means:

(a) a county that contracts with a constable as described in Title 17, Chapter 78, Part 6, Constables; or

(b) a city that contracts with a constable as described in Section 10-7-87.

(9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from a trial or plea, including a plea of no contest or nolo contendere, regardless of whether the imposition of sentence was suspended.

(10) "Deputy constable" means an individual who:

(a) is licensed as a deputy constable under this chapter; and

(b) performs one or more of the duties described in Section 58-91-301 at the direction of a constable.

(11) "Emergency action" means a summary suspension of a license issued under this chapter pending revocation, suspension, or probation, in order to protect the public health, safety, or welfare.

(12) "Identification card" means a personal pocket- or wallet-size card issued by the division to a licensee.

(13) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(14) "Licensee" means a person to whom a license is issued under this chapter.

(15) "Occupied structure" means any edifice, including residential and public buildings, vehicles, or any other structure that could reasonably be expected to house or shelter persons.

(16) "Peace officer" means the same as that term is defined in Section 53-1-102.

(17) "Prisoner" means the same as that term is defined in Section 17-72-101.

(18) "Special function officer" means the same as that term is defined in Section 53-13-105.

(19) "Supervision" means the employing licensee is responsible for and authorizes the type and extent of work assigned to an employee or independent contractor.

(20) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-91-801.

(21) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-91-802, and as may be further defined by the board by rule.

Section 10. Section **58-91-102** is enacted to read:

58-91-102 . Division administration -- Rulemaking.

(1) The division shall keep records of:

(a) all applications for licenses under this chapter; and

(b) proof of workers' compensation required to be filed.

(2) If a license is revoked, suspended, or canceled, or a license is denied or placed on probation, the division shall ensure the date of filing the order for revocation, suspension, cancellation, denial, or probation is included in a record described in Subsection (1).

(3) The division shall maintain:

(a) a list of all individuals, firms, partnerships, associations, or corporations that have had a license revoked, suspended, placed on probation, or canceled; and

(b) a written record of complaints filed against licensees.

(4)(a) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this chapter.

(b) Rules described in Subsection (4)(a) shall include a requirement that all providers offering instruction or continuing instruction required for licensure under this chapter shall offer the courses to all applicants at the same course fees, in order to be qualified by the board.

(5) All records described in this section are open to the public under Title 63G, Chapter 2, Government Records Access and Management Act, except licensees' residential addresses and telephone numbers.

Section 11. Section **58-91-103** is enacted to read:

58-91-103 . License classifications -- Background checks -- Prohibited acts -- Division to issue licenses.

- (1) Licenses under this chapter are issued in the classifications of:
- (a) constable;
 - (b) deputy constable; and
 - (c) apprentice constable.
- (2) An applicant for a license described in this chapter shall:
- (a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;
 - (b) meet any other standard related to the criminal background check described in Subsection (2)(a) that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (c) disclose any criminal history the division requests on a form the division approves.
- (3)(a) The division shall set initial licensing fees, renewal fees, and delinquency fees:
- (i) by license classification, as described in Subsection (1);
 - (ii) in accordance with Section 63J-1-504; and
 - (iii) in accordance with this section.
- (b) The division shall collect fingerprinting fees in accordance with Section 58-1-301.5.
- (4) A person may not:
- (a) act or assume to act as, or claim to be, a licensee unless the person is licensed under this chapter; or
 - (b) falsely represent that the person is employed by a licensee.
- (5) The division shall, under the direction of the board, issue licenses to applicants who qualify for a license under this chapter.
- (6) A license issued under this chapter is not transferable or assignable.
- Section 12. Section **58-91-104** is enacted to read:
- 58-91-104 . Use of money for education, training, and enforcement.**
- The director may, with the concurrence of the board, use fines collected under Section 58-91-803 for the following purposes:
- (1) educating and training licensees under this chapter;
 - (2) educating and training the general public in matters concerning the laws that govern practices licensed under this chapter; and
 - (3) enforcing this chapter by:
 - (a) investigating unprofessional or unlawful conduct; and
 - (b) providing legal representation to the division when the division takes legal action against an individual charged with unprofessional or unlawful conduct.

Section 13. Section **58-91-201** is enacted to read:

Part 2. Board

58-91-201 . Board -- Duties.

(1) There is created the Constables Licensing Board.

(2) The membership of the board consists of:

(a) one individual representing a county that:

(i) appointed or contracted with an unlicensed constable service before January 1, 2027; or

(ii) on or after January 1, 2027, is contracted with a licensed constable as described in Title 17, Chapter 78, Part 6, Constables;

(b)(i) before January 1, 2027, an individual who has at least five years' experience acting as a constable in the state; or

(ii) beginning January 1, 2027, an individual who is licensed under Title 58, Chapter 91, Constables Licensing Act;

(c) a sheriff or chief of police;

(d) one individual:

(i) representing the legal community; and

(ii) with experience utilizing constable services as a client; and

(e) a member of the public who:

(i) does not have a financial interest in a constable business; and

(ii) does not have an immediate family member or a household member, or a personal or professional acquaintance, who is licensed or registered under this chapter.

(3)(a)(i) The executive director shall appoint board members in accordance with Section 58-1-201.

(ii) In making the appointment of the board member described in Subsection (2)(a), the executive director shall consider nominees put forth by the Utah Association of Counties.

(b) A board member shall be a citizen of the United States and a resident of this state at the time of appointment.

(c) A board member serves in accordance with Section 58-1-201.

(4)(a) The board shall carry out the board's duties and responsibilities in accordance with Sections 58-1-202 and 58-1-203.

(b) The board shall designate one board member to:

(i) assist the division in reviewing a complaint regarding the unlawful or

- unprofessional conduct of an individual licensed under this chapter; and
- (ii) advise the division in the division's investigation of a complaint described in Subsection (4)(b)(i).
- (5) A board member who, under Subsection (4), has reviewed a complaint or advised in a complaint's investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 14. Section **58-91-202** is enacted to read:

58-91-202 . Powers and duties of the board.

- (1) The board shall:
- (a)(i) review all applications for licensing and renewals of licenses submitted by the division under this chapter; and
- (ii) approve or disapprove applications;
- (b) review all complaints and take disciplinary action; and
- (c) establish standards for and approve providers of courses required for licensure.
- (2) The board may take and hear evidence, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, records, documents, and other information relating to:
- (a) investigation of an applicant for licensure under this chapter; or
- (b) a formal complaint against, or division investigation of, a constable.

Section 15. Section **58-91-301** is enacted to read:

Part 3. Licensing Constables

58-91-301 . Scope of practice of a constable -- License required on or after January 1, 2027.

- (1)(a) A constable may:
- (i) serve legal documents throughout the state;
- (ii) serve any civil process throughout the state;
- (iii) when acting under the direction of a contracting governmental entity, arrest an individual pursuant to an arrest warrant in any location in the state;
- (iv) when acting under the direction of a contracting governmental entity, transport a prisoner within the state;
- (v) when acting under the direction of a justice court, take an action described in Subsection 17-78-603(2);
- (vi) hire and direct the actions of a deputy constable; and

(vii) hire and supervise an apprentice constable.

(b) A deputy constable may take any action described in Subsections (1)(a) through (v) when acting at the direction of a licensed constable.

(c) An apprentice constable may take any action described in Subsections (1)(a) through (v) when acting under the supervision of a licensed constable.

(2) A constable who is acting under the direction of a contracting governmental entity shall provide the division with a copy of the constable's contract with the contracting governmental entity.

(3) Upon termination of a contract between a constable and a contracting governmental entity, the constable shall notify the division no later than five business days after the day on which the termination takes effect.

(4) Beginning January 1, 2027, a license is required to engage in the practice of a constable, whether the constable engages a client, a contracting governmental entity, or both.

Section 16. Section **58-91-302** is enacted to read:

58-91-302 . Qualifications for licensure.

(1) Each applicant for licensure shall:

(a) be 21 years old or older;

(b) be trained and certified as a special function officer in the state, as described in Section 53-13-105;

(c) if the applicant is applying for a constable license, produce evidence that the individual has at least:

(i) five years of experience serving as an appointed or contracted constable with a county or municipality before January 1, 2027;

(ii) five years of combined experience as a constable described in Subsection (1)(c)(i), a deputy constable, or a law enforcement officer if at least one year of the experience was as a constable or deputy constable; or

(iii) 2,000 hours of experience as a deputy constable licensed under this chapter;

(d) if the applicant is applying for a deputy constable license, produce evidence that the individual has at least:

(i) two years of experience serving as a deputy constable before January 1, 2027;

(ii) two years of combined experience as a deputy constable described in Subsection (1)(d)(i) or law enforcement officer if at least 500 hours of the experience was as a deputy constable; or

(iii) 1,000 hours of experience as an apprentice constable licensed under this chapter;

- (e) submit an application in a form the division approves;
- (f) pay a fee determined by the department under Section 63J-1-504;
- (g) provide evidence that the constable carries the minimum required insurance; and
- (h) meet with the division and board, if requested by the division or the board.
- (2) The division and board shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the type of insurance coverage and minimum coverage amounts required for:
- (a) a licensed constable who provides criminal services for a contracting governmental entity, civil services for a contracting governmental entity, and civil services for a client;
- (b) a licensed constable who provides only civil services for a contracting governmental entity or a client;
- (c) a licensed constable who provides only civil services for a client;
- (d) a deputy constable; and
- (e) an apprentice constable.

Section 17. Section **58-91-303** is enacted to read:

58-91-303 . Term of license -- Expiration -- Renewal.

- (1)(a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule.
- (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles the division administers.
- (2) Each license automatically expires on the expiration date shown on the license unless the licensee renews the license in accordance with Section 58-1-308.

Section 18. Section **58-91-304** is enacted to read:

58-91-304 . Exemptions from licensure.

- (1) In addition to the exemptions from licensure in Section 58-1-307, an individual may engage in acts regulated under this chapter without being licensed under this chapter if the individual is:
- (a) a peace officer employed by a constable as provided in Subsection (2);
- (b) licensed by the division under another chapter of this title to engage in the act; or
- (c) a peace officer acting in the scope of the peace officer's employment.
- (2) A peace officer may only engage in off-duty employment with a constable if:
- (a) the law enforcement agency employing the peace officer has a written policy regarding peace officer employees working while off duty as a constable and the

written policy addresses the issue of financial responsibility;

(b) the law enforcement agency's chief administrative officer, or that officer's designee, provides written authorization for an off-duty peace officer to work as a constable; and

(c) the client, contracting governmental entity, or licensed constable employing the peace officer to work as a constable complies with state and federal income reporting and withholding requirements regarding the off-duty peace officer's wages.

Section 19. Section **58-91-305**, which is renumbered from Section 17-78-607 is renumbered and amended to read:

[17-78-607] 58-91-305 . Identification of constables -- Uniform requirements.

(1) An individual licensed as a constable shall:

(a) carry a copy of the individual's license on the individual's person at all times while acting as a constable; and

(b) display the license upon the request of a peace officer, a representative of the division, or a member of the public.

(2) While performing a duty [~~described in Section 17-78-603~~] within the scope of practice of a constable, as described in Section 58-91-301, a constable shall prominently display a [~~badge or other~~] visible form of credentials and identification identifying:

(a) the individual as a constable;

(b) the individual's name; and

(c) the governmental contracting entity for which the constable is acting, if applicable.

~~[(e) the county for which the constable is appointed or contracted.]~~

~~[(2)]~~ (3) If a constable serves process, the constable shall:

(a) verbally communicate to the person being served that the constable is a constable; and

(b) print on the first page of each document served:

(i) the constable's name and identification as a constable;

(ii) the county for which the constable is appointed; and

(iii) a business phone number for the constable.

~~[(3)]~~ (4) If a constable wears a uniform, the uniform shall be clearly marked with the word "constable" on the uniform shirt and, if applicable, the jacket.

Section 20. Section **58-91-306** is enacted to read:

58-91-306 . Operating standards for constables -- Rulemaking.

(1) In addition to the requirements of Section 58-91-305, the division in collaboration with

the board may establish by rule additional operating standards that shall apply to the conduct of licensees under this chapter, including rules relating to use of uniforms, badges, insignia, designations, and representations used by or associated with a licensee's practice under this chapter.

(2) In making rules described in Subsection (1), the division and board shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 21. Section **58-91-401** is enacted to read:

Part 4. License Denial and Discipline

58-91-401 . General grounds for denial of license -- Disciplinary proceedings.

The division and board may, in accordance with Section 58-1-401, take any of the following actions:

- (1) refuse to issue a license to an applicant;
- (2) refuse to renew the license of a licensee;
- (3) revoke, suspend, restrict, or place on probation the license of a licensee;
- (4) issue a public or private reprimand to a licensee; and
- (5) issue a cease and desist order to a licensee.

Section 22. Section **58-91-501** is enacted to read:

Part 5. Unlawful Conduct - Unprofessional Conduct - Penalties

58-91-501 . Unlawful conduct.

"Unlawful conduct" includes:

- (1) a licensee employing the services of an unlicensed individual to perform the duties of a licensee, except as provided in Section 58-91-304;
- (2) filing with the division fingerprint cards for an applicant that are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in the division's consideration of the qualifications of the applicant for licensure;
- (3) practicing or engaging in, or attempting to practice or engage in, activity for which a license is required under this chapter, unless the individual:
 - (a) holds a license; or
 - (b) is exempted from licensure as provided in Section 58-91-304;
- (4) knowingly employing another person to engage in or practice or attempt to engage in or practice an occupation or profession licensed under this chapter, if the employee:
 - (a) is not licensed to do so under this chapter; or
 - (b) is not exempt from licensure; and

(5) charging a client a fee that the constable is prohibited from charging under Section 78B-7-105 or 78B-7-207.

Section 23. Section **58-91-502** is enacted to read:

58-91-502 . Unprofessional conduct.

(1) "Unprofessional conduct" includes:

- (a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;
- (b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person is a constable in this state;
- (c) gross negligence in the practice of a licensee;
- (d) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of a license;
- (e) making a fraudulent or untrue statement to the board or division;
- (f) failing to carry or display a copy of the constable's license or failing to comply with the identification requirements described in Section 58-91-305;
- (g) employing an individual whom the licensed constable knows or should know has engaged in conduct that is inconsistent with the duties and responsibilities of a licensee under this chapter; and
- (h) failing to comply with operating standards established under Section 58-91-306.

(2) The division and board may take a licensee's conviction by a court of competent jurisdiction or entrance of a plea of no contest as conclusive evidence that the licensee committed a felony or misdemeanor described in Subsection (1)(d).

Section 24. Section **58-91-503** is enacted to read:

58-91-503 . Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-91-501 or who fails to comply with a citation issued under this section after the citation becomes final is guilty of a class A misdemeanor.

(2) The division may immediately suspend a license issued under this chapter from an individual who is given a citation for violating Section 58-91-501.

(3)(a) If upon inspection or investigation, the division determines that a person has violated Section 58-91-501 or any rule made or order issued under those subsections, and that disciplinary action is warranted, the director or the director's designee shall promptly issue a written citation to the individual and:

- (i) attempt to negotiate a stipulated settlement; or

- 775 (ii) notify the individual to appear for an adjudicative proceeding conducted under
776 Title 63G, Chapter 4, Administrative Procedures Act.
- 777 (b) In regard to an individual who violates Section 58-91-501, as evidenced by an
778 uncontested citation, a stipulated settlement, or a finding of a violation in an
779 adjudicative proceeding held under Subsection (3)(a)(ii), the division may:
- 780 (i) fine the individual, as described in Subsection (4);
781 (ii) order the individual to cease and desist from the violation; or
782 (iii) both fine the individual and order the individual to cease and desist from the
783 violation.
- 784 (c) Except for a cease and desist order, the division may not impose the licensure
785 sanctions listed in Section 58-91-401 through the issuance of a citation under this
786 section.
- 787 (d) A written citation described in Subsection (3)(a) shall:
- 788 (i) describe the nature of the violation, including a reference to the allegedly violated
789 statute, rule, or order;
- 790 (ii) state the recipient must notify the division in writing within 20 calendar days of
791 issuance of the citation if the recipient intends to contest the citation at an
792 adjudicative proceeding under Subsection (3)(a)(ii); and
- 793 (iii) explain the consequences of failure to timely contest the citation or to make
794 payment of a fine assessed under the citation with the time specified in the citation.
- 795 (e) The division may serve a written citation issued under this section, or a copy of the
796 written citation:
- 797 (i) upon an individual who is subject to service of a summons under the Utah Rules
798 of Civil Procedure;
- 799 (ii) personally or via the individual's agent; and
- 800 (iii) by a division investigator, by a person designated by the director, or by mail.
- 801 (f)(i) If within 20 days from the service of a citation the individual to whom the
802 citation was issued fails to request a hearing to contest the citation, the citation
803 becomes the final order of the division and is not subject to further agency review.
- 804 (ii) The division may grant an extension of the 20-day period for cause.
- 805 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation the
806 license of a licensee who fails to comply with a citation after the citation becomes
807 final.
- 808 (h) The division may not issue a citation for an alleged violation under this section after

the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(4) The director or the director's designee may assess fines under this section as follows:

(a) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

(b) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

(c) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each day of continued violation.

(5) For purposes of issuing a final order under this section and assessing a fine under Subsection (4), an offense is a second or subsequent offense if:

(a) the division previously issued a final order determining that a person committed a first or second offense in violation of Section 58-91-501; or

(b)(i) the division initiated an action for a first or second offense;

(ii) no final order has been issued by the division;

(iii) the division determines during an investigation that occurred after the initiation of the action that the individual committed a second or subsequent violation of Section 58-91-501; and

(iv) after determining that the person committed a second or subsequent offense, the division issues a final order on the action.

(6) In issuing a final order for a second or subsequent offense under Subsection (5), the division shall comply with the requirements of this section.

(7)(a) The division shall deposit a fine imposed by the director under Subsection (4) into the General Fund as a dedicated credit for use by the division for the purposes listed in Section 58-91-104.

(8) The director may collect a fine that is not paid by:

(a) referring the matter to a collection agency; or

(b) bringing an action in court in the county where:

(i) the person against whom the penalty is imposed resides; or

(ii) the office of the director is located.

(9) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(10) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 25. Section **58-91-601** is enacted to read:

Part 6. Regulatory Jurisdiction

58-91-601 . State preemption of local regulation.

(1) Notwithstanding Title 17, Chapter 78, Part 6, Constables, or Section 10-7-87, a political subdivision of this state may not enact any ordinance, adopt any resolution, or make any policies relating to the licensing or regulation of constables.

(2) Any ordinance, resolution, or policy made by any political subdivision of this state relating to the licensing, training, or regulation of constables is superseded by this chapter.

(3) This section does not prevent a contracting governmental entity from:

- (a) including in a contract between a licensed constable and the contracting governmental entity any provision that does not conflict with Subsection (1); or
- (b) requiring a constable to conform with the contracting governmental entity's training, process, standards, or other procedures when making an arrest or transporting a prisoner at the direction and authorization of the contracting governmental entity.

Section 26. Section **76-6-1403** is amended to read:

76-6-1403 . Requirements for records of sale or purchases.

(1) Every dealer shall:

- (a) require the information under Subsection (2) for each transaction of regulated metal, except under Subsection 76-6-1406(4); and
- (b) maintain for each purchase of regulated metal the information required by this part in a written or electronic log, in the English language.

(2) The dealer shall require the following information of the seller and shall record the information as required under Subsection (1) for each purchase of regulated metal:

- (a) a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;
- (b) the full name and residence of each person selling the regulated metal;
- (c) the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer;
- (d) the price per pound and the amount paid for each type of regulated metal purchased by the dealer;
- (e) the date, time, and place of the purchase;
- (f) the type and the identifying number of the identification provided in Subsection (2)(g);
- (g) a form of identification that is a valid United States federal or state-issued photo ID, which includes a driver license, a United States passport, a United States passport card, or a United States military identification card;

(h) the seller's signature on a certificate stating that the seller has the legal right to sell the scrap metal or junk; and

(i) a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller's identification.

(3) No entry in the log may be erased, deleted, mutilated, or changed.

(4) The log and entries shall be open to inspection by the following ~~[officials having jurisdiction over]~~ individuals in the area in which the dealer does business during regular business hours:

(a) the county sheriff or deputies;

(b) any law enforcement agency;

(c) any constable who holds a contract with a city or a county in which the dealer does business; and

~~[(e)]~~ (d) ~~any [constable or other]~~ state, municipal, or county official in the county in which the dealer does business.

(5) A dealer shall make these records available for inspection by any law enforcement agency, upon request, at the dealer's place of business during the dealer's regular business hours.

(6) Log entries made under this section shall be maintained for not less than three years from date of entry.

(7)(a) The dealer may maintain the information required by Subsection (2) for repeat sellers who use the same vehicle to bring regulated metal for each transaction in a relational database that allows the dealer to enter an initial record of the seller's information and then relate subsequent transaction records to that initial information, except under Subsection (7)(b).

(b) The dealer shall obtain regarding each transaction with repeat sellers:

(i) a photograph of the seller; and

(ii) a signature from the seller.

(8) A dealer who violates this section is subject to the penalties described in Section 76-6-1403.1.

Section 27. Section **76-8-301** is amended to read:

76-8-301 . Interference with public servant.

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

(i) "Constable" means an individual:

(A) acting at the direction of a city, as described in Section 10-7-87;

- 911 (B) acting at the direction of a county, as described in Title 17, Chapter 78, Part 6,
 912 Constables;
- 913 (C) who is visibly identifiable as a constable and who identifies himself or herself
 914 as a constable; and
- 915 (D) who, beginning January 1, 2027, is licensed as a constable under Title 58,
 916 Chapter 91, Constables Licensing Act.
- 917 (ii) ~~["public]~~ "Public servant" does not include a juror.
- 918 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 919 (2) An actor commits interference with a public servant if the actor:
- 920 (a) uses force, violence, intimidation, or engages in any other unlawful act with a
 921 purpose to interfere with a public servant performing or purporting to perform an
 922 official function; or
- 923 (b) obstructs, hinders, conceals, or prevents the lawful service of any civil or criminal
 924 legal process by a sheriff, constable, deputy sheriff, deputy constable, peace officer,
 925 private investigator, or any other person authorized to serve legal process.
- 926 (3) A violation of Subsection (2) is a class B misdemeanor.
- 927 Section 28. Section **78B-2-304** is amended to read:
- 928 **78B-2-304 . Within two years.**
- 929 An action may be brought within two years:
- 930 (1) against a marshal, sheriff,~~[-constable,]~~ or other officer for liability incurred during the
 931 performance of the officer's official duties or by the omission of an official duty,
 932 including the nonpayment of money collected upon an execution;
- 933 (2) against a constable:
- 934 (a) for the nonpayment of money collected upon an execution; or
- 935 (b) acting at the direction of a city, as described in Section 10-7-87, or a county as
 936 described in Title 17, Chapter 78, Part 6, Constables, for liability incurred during the
 937 performance of the constable's duties;
- 938 ~~[(2)]~~ (3) for recovery of damages for a death caused by the wrongful act or neglect of
 939 another;
- 940 ~~[(3)]~~ (4) in causes of action against the state and ~~[its]~~ state employees, for injury to the
 941 personal rights of another if not otherwise provided by state or federal law; or
- 942 ~~[(4)]~~ (5) in causes of action against a political subdivision of the state and ~~[its]~~ a political
 943 subdivision's employees, for injury to the personal rights of another arising after May 1,
 944 2000, if not otherwise provided by state or federal law.

Section 29. Section **78B-6-801** is amended to read:

78B-6-801 . Definitions.

- (1) "Commercial tenant" means any tenant who may be a body politic and corporate, partnership, association, or company.
- (2)(a) "Constable" means an individual acting at the direction of:
- (i) a city, as described in Section 10-7-87; or
 - (ii) a county, as described in Title 17, Chapter 78, Part 6, Constables.
- (b) "Constable" also means an individual who, beginning January 1, 2027, is licensed as a constable under Title 58, Chapter 91, Constables Licensing Act, regardless of whether the constable is providing services for a contracting governmental entity or a private client.
- ~~[(2)]~~ (3) "Forcible detainer" means:
- (a) holding and keeping by force, or by menaces and threats of violence, the possession of any real property, whether acquired peaceably or otherwise; or
 - (b) unlawfully entering real property during the absence of the occupants or at night, and, after demand is made for the surrender of the property, refusing for a period of three days to surrender the property to the former occupant.
- ~~[(3)]~~ (4) "Forcible entry" means:
- (a) entering any real property by:
 - (i) breaking open doors, windows, or other parts of a house;
 - (ii) fraud, intimidation, or stealth; or
 - (iii) any kind of violence or circumstances of terror; or
 - (b) after entering peaceably upon real property, turning out by force, threats, or menacing conduct the party in actual possession.
- ~~[(4)]~~ (5) "Occupant of real property" means one who within five days preceding an unlawful entry was in the peaceable and undisturbed possession of the property.
- ~~[(5)]~~ (6) "Owner":
- (a) means the actual owner of the premises;
 - (b) has the same meaning as landlord under common law and the statutes of this state; and
 - (c) includes the owner's designated agent or successor to the estate.
- ~~[(6)]~~ (7)(a) "Peaceable possession" means having a legal right to possession.
- (b) "Peaceable possession" does not include:
- (i) the occupation of premises by a trespasser; or

(ii) continuing to occupy real property after being served with an order of restitution issued by a court of competent jurisdiction .

~~[(7)]~~ (8)(a) "Tenant" means any natural person and any individual, including a commercial tenant.

(b) "Tenant" does not include a person or entity that has no legal right to the premises.

~~[(8)]~~ (9) "Trespasser" means a person or entity that occupies real property but never had possessory rights in the premises.

~~[(9)]~~ (10) "Unlawful detainer" means unlawfully remaining in possession of property after receiving a notice to quit, served as required by this chapter, and failing to comply with that notice.

~~[(10)]~~ (11) "Willful exclusion" means preventing the tenant from entering into the premises with intent to deprive the tenant of entry.

Section 30. Section **78B-7-102** is amended to read:

78B-7-102 . Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

(3) "Canadian domestic violence protection order" means the same as that term is defined in Section 78B-7-1201.

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

(5) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders;

(d) Part 6, Cohabitant Abuse Protective Orders; or

(e) Part 11, Workplace Violence Protective Orders.

(6) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(7)(a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

- (ii) is or was living as if a spouse of the other party;
- (iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;
- (iv) has or had one or more children in common with the other party;
- (v) is the biological parent of the other party's unborn minor child;
- (vi) resides or has resided in the same residence as the other party; or
- (vii) is or was in a consensual sexual relationship with the other party.
- (b) "Cohabitant" does not include:
- (i) the relationship of natural parent, adoptive parent, or step-parent to a minor child; or
- (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.
- (8) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.
- (9) "Constable" means the same as that term is defined in Section 78B-6-801.
- ~~[(9)]~~ (10) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.
- ~~[(10)]~~ (11) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.
- ~~[(11)]~~ (12) "Court clerk" means a district court clerk.
- ~~[(12)]~~ (13)(a) "Dating partner" means an individual who:
- (i)(A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or
- (B) is 18 years old or older; and
- (ii) is, or has been, in a dating relationship with the other party.
- (b) "Dating partner" does not include an intimate partner.
- ~~[(13)]~~ (14)(a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.
- (b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.
- (c) In determining, based on a totality of the circumstances, whether a dating relationship exists:
- (i) all relevant factors shall be considered, including:

- 1047 (A) whether the parties developed interpersonal bonding above a mere casual
1048 fraternization;
1049 (B) the length of the parties' relationship;
1050 (C) the nature and the frequency of the parties' interactions, including
1051 communications indicating that the parties intended to begin a dating
1052 relationship;
1053 (D) the ongoing expectations of the parties, individual or jointly, with respect to
1054 the relationship;
1055 (E) whether, by statement or conduct, the parties demonstrated an affirmation of
1056 their relationship to others; and
1057 (F) whether other reasons exist that support or detract from a finding that a dating
1058 relationship exists; and

1059 (ii) it is not necessary that all, or a particular number, of the factors described in
1060 Subsection (13)(c)(i) are found to support the existence of a dating relationship.

1061 ~~[(14)]~~ (15) "Dating violence" means:

- 1062 (a) a criminal offense involving violence or physical harm, or threat of violence or
1063 physical harm, when committed by an individual against a dating partner; or
1064 (b) an attempt, a conspiracy, or a solicitation by an individual to commit a criminal
1065 offense involving violence or physical harm against a dating partner of the individual.

1066 ~~[(15)]~~ (16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

1067 ~~[(16)]~~ (17) "Ex parte civil protective order" means an order issued without notice to the
1068 respondent under:

- 1069 (a) Part 2, Child Protective Orders;
1070 (b) Part 4, Dating Violence Protective Orders;
1071 (c) Part 5, Sexual Violence Protective Orders;
1072 (d) Part 6, Cohabitant Abuse Protective Orders; or
1073 (e) Part 11, Workplace Violence Protective Orders.

1074 ~~[(17)]~~ (18) "Ex parte civil stalking injunction" means a stalking injunction issued without
1075 notice to the respondent under Part 7, Civil Stalking Injunctions.

1076 ~~[(18)]~~ (19) "Foreign protection order" means:

- 1077 (a) the same as that term is defined in Section 78B-7-302; or
1078 (b) a Canadian domestic violence protection order.

1079 ~~[(19)]~~ (20) "Household animal" means an animal that is tamed and kept as a pet.

1080 ~~[(20)]~~ (21) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

- 1081 ~~[(21)]~~ (22) "Law enforcement unit" or "law enforcement agency" means any public agency
1082 having general police power and charged with making arrests in connection with
1083 enforcement of the criminal statutes and ordinances of this state or any political
1084 subdivision.
- 1085 ~~[(22)]~~ (23) "Minor child" means the same as that term is defined in Section 81-1-101.
- 1086 ~~[(23)]~~ (24) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace
1087 Officer Classifications.
- 1088 ~~[(24)]~~ (25) "Qualifying domestic violence offense" means the same as that term is defined in
1089 Section 77-36-1.1.
- 1090 ~~[(25)]~~ (26) "Respondent" means the individual against whom enforcement of a protective
1091 order is sought.
- 1092 ~~[(26)]~~ (27) "Stalking" means the same as that term is defined in Section 76-5-106.5.
- 1093 Section 31. Section **78B-8-302** is amended to read:
- 1094 **78B-8-302 . Process servers.**
- 1095 (1) A complaint, a summons, or a subpoena may be served by an individual who is:
- 1096 (a) 18 years old or older at the time of service; and
- 1097 (b) not a party to the action or a party's attorney.
- 1098 (2) Except as provided in Subsection (5), the following may serve all process issued by the
1099 courts of this state:
- 1100 (a) a peace officer employed by a political subdivision of the state acting within the
1101 scope and jurisdiction of the peace officer's employment;
- 1102 (b) a sheriff or appointed deputy sheriff employed by a county of the state;
- 1103 (c) a constable, or the constable's deputy^[7] :
- 1104 (i) ~~[-]~~serving in compliance with applicable law; and
- 1105 (ii) beginning January 1, 2027, who is licensed in accordance with Title 58, Chapter
1106 91, Constables Licensing Act;
- 1107 (d) an investigator employed by the state and authorized by law to serve civil process; or
- 1108 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private
1109 Investigator Regulation Act.
- 1110 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private
1111 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- 1112 (4) While serving process, a private investigator shall:
- 1113 (a) have on the investigator's body a visible form of credentials and identification
1114 identifying:

- 1115 (i) the investigator's name;
- 1116 (ii) that the investigator is a licensed private investigator; and
- 1117 (iii) the name and address of the agency employing the investigator or, if the
- 1118 investigator is self-employed, the address of the investigator's place of business;
- 1119 (b) verbally communicate to the person being served that the investigator is acting as a
- 1120 process server; and
- 1121 (c) print on the first page of each document served:
- 1122 (i) the investigator's name and identification number as a private investigator; and
- 1123 (ii) the address and phone number for the investigator's place of business.
- 1124 (5) The following may only serve process under this section when the use of force is
- 1125 authorized on the face of the document, or when a breach of the peace is imminent or
- 1126 likely under the totality of the circumstances:
- 1127 (a) a law enforcement officer, as defined in Section 53-13-103; or
- 1128 (b) a special function officer, as defined in Section 53-13-105, who is:
- 1129 (i) employed as an appointed deputy sheriff by a county of the state; or
- 1130 (ii) a constable who holds a contract with:
- 1131 (A) a municipality as described in Section 10-7-87; or
- 1132 (B) a county as described in Title 17, Chapter 78, Part 6, Constables.
- 1133 (6) The following may not serve process issued by a court:
- 1134 (a) an individual convicted of a felony violation of an offense that would result in the
- 1135 individual being a sex offender under Subsection 53-29-202(2)(b); or
- 1136 (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7,
- 1137 Protective Orders and Stalking Injunctions, in which a court has granted the
- 1138 petitioner a protective order.
- 1139 (7) An individual serving process shall:
- 1140 (a) legibly document the date and time of service on the front page of the document
- 1141 being served;
- 1142 (b) legibly print the process server's name, address, and telephone number on the return
- 1143 of service;
- 1144 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,
- 1145 Uniform Unsworn Declarations Act;
- 1146 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the
- 1147 badge number of the process server on the return of service;
- 1148 (e) if the process server is a constable, legibly print the following on the return of service:

1149 (i) before January 1, 2027, the constable's name, identification as a constable,
1150 business phone number, and the city or county that appointed or contracts with the
1151 constable; or
1152 (ii) on and after January 1, 2027, the information required in Section 58-91-601; and
1153 [(e)] (f) if the process server is a private investigator, legibly print the private
1154 investigator's identification number on the return of service.
1155 Section 32. Section **78B-8-303** is amended to read:
1156 **78B-8-303 . Recoverable rates.**
1157 If the rates charged by private process servers exceed the rates established by law for
1158 service of process by [~~persons under Subsection 78B-8-302(1)~~] individuals described in Section
1159 78B-8-302, the excess charge may be recovered as costs of an action only if the court
1160 determines the service and charge were justifiable under the circumstances.
1161 Section 33. **Effective Date.**
1162 This bill takes effect on May 6, 2026.