

# CRIMINAL CODE RECODIFICATION AND CROSS REFERENCES

2024 GENERAL SESSION

STATE OF UTAH

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## LONG TITLE

### General Description:

This bill modifies criminal provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure and clarifying existing law.

### Highlighted Provisions:

This bill:

- ▶ reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 8, Offenses Against the Administration of Government;
- ▶ for clarity, makes technical corrections to certain statutes resulting from the 2022 Criminal Code Recodification:
  - in Title 76, Chapter 1, General Provisions, to reflect separation of aggravated human trafficking and aggravated human smuggling into separate statutes; and
  - in Title 76, Chapter 3, Punishments, to reflect mandatory imprisonment for sexual abuse of a child;
- ▶ makes technical corrections to certain statutes resulting from the 2023 Criminal Code Recodification:
  - in Title 76, Chapter 6, Offenses Against Property, regarding erroneous inclusion of penalty provision in offense concerning unlawful dealing of property by a fiduciary; and
  - in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, to reflect separation of criminal mischief statute into two separate offenses;
- ▶ for clarity, creates new definition of "harm" for definitions section of Title 76, Chapter 8, based upon existing definitions in chapter and revises relevant offenses to reflect change;
- ▶ reorganizes the following offenses to enact an embedded offense as a stand-alone statute:
  - offense concerning receiving bribe or bribery for endorsement of person as

- 33 public servant;
- 34 • offense of interference with public servant; and
- 35 • offense concerning obstruction of justice in a criminal investigation or
- 36 proceeding;
- 37 ▶ reorganizes and clarifies existing language in offense of escape and enacts
- 38 embedded offense of aggravated escape as stand-alone statute;
- 39 ▶ reorganizes existing statutes concerning secure areas, including enacting a number
- 40 of statutes to reflect separate stand-alone offenses;
- 41 ▶ reorganizes the offense of threatening an elected official;
- 42 ▶ reorganizes offenses concerning influencing, impeding, or retaliating against a judge
- 43 or a member of the Board of Pardons and Parole or a family member and enacts
- 44 several stand-alone statutes to reflect separate embedded offenses;
- 45 ▶ for clarity, revises offense concerning refusal to comply with an order to evacuate or
- 46 another order issued in a local or state emergency;
- 47 ▶ for clarity, reorganizes and revises offenses concerning aiding or concealing an
- 48 adjudicated minor and trespass of a secure care facility;
- 49 ▶ for clarity, revises statutes concerning misusing public money or public property;
- 50 ▶ reorganizes offenses concerning refusing to give tax assessor or tax or license
- 51 collector a list of, or denying access to, employees, to enact embedded offense as a
- 52 stand-alone statute;
- 53 ▶ for clarity, revises language in offense concerning stealing, destroying, or mutilating
- 54 public records by a custodian;
- 55 ▶ reorganizes offenses concerning taking a toll or maintaining road, bridge, or ferry
- 56 without authority to enact an embedded offense as a stand-alone statute;
- 57 ▶ for clarity, revises statutes concerning false or inconsistent statements;
- 58 ▶ reorganizes offenses concerning tampering with a witness and receiving or
- 59 soliciting a bribe to enact embedded offense as a stand-alone statute;
- 60 ▶ reorganizes offenses concerning a wrongful attachment by a justice court to enact
- 61 embedded offense as a stand-alone statute;
- 62 ▶ for clarity, removes provisions from Title 76, Chapter 8, Part 7, Colleges and
- 63 Universities, and places them in Title 53B, State System of Higher Education;

- 64           ▶ for clarity, revises and reorganizes offenses:
- 65           • concerning criminal trespass upon an institution of higher education and willful
- 66           interference with lawful activities of students or faculty; and
- 67           • contained in Title 76, Chapter 8, Part 8, Sabotage Prevention;
- 68           ▶ for clarity, repeals duplicative language concerning criminal offenses and penalties
- 69           relating to revenue and taxation;
- 70           ▶ for clarity, revises and reorganizes offenses in:
- 71           • Title 76, Chapter 8, Part 12, Public Assistance Fraud; and
- 72           • Title 76, Chapter 8, Part 13, Unemployment Insurance Fraud; and
- 73           ▶ makes technical and conforming changes.

74   **Money Appropriated in this Bill:**

75           None

76   **Other Special Clauses:**

77           None

78   **Utah Code Sections Affected:**

79   **AMENDS:**

- 80           **17-22-5**, as last amended by Laws of Utah 2004, Chapter 301
- 81           **26B-6-205**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 82           **35A-3-603**, as last amended by Laws of Utah 2023, Chapter 328
- 83           **35A-3-604**, as last amended by Laws of Utah 2015, Chapter 221
- 84           **35A-4-304**, as last amended by Laws of Utah 2012, Chapter 15
- 85           **35A-4-305**, as last amended by Laws of Utah 2012, Chapter 15
- 86           **35A-4-312**, as last amended by Laws of Utah 2016, Chapter 296
- 87           **53-10-403**, as last amended by Laws of Utah 2023, Chapters 328, 457
- 88           **53B-3-103**, as last amended by Laws of Utah 2021, First Special Session, Chapter 7
- 89           **59-1-401**, as last amended by Laws of Utah 2023, Chapter 471
- 90           **63G-12-402**, as last amended by Laws of Utah 2022, Chapters 328, 370
- 91           **64-13-14.5**, as last amended by Laws of Utah 2015, Chapter 412
- 92           **76-1-301**, as last amended by Laws of Utah 2022, Chapter 181
- 93           **76-3-203.1**, as last amended by Laws of Utah 2023, Chapter 111

94           **76-3-203.3**, as last amended by Laws of Utah 2023, Chapter 111  
95           **76-3-203.5**, as last amended by Laws of Utah 2023, Chapter 111  
96           **76-3-406**, as last amended by Laws of Utah 2023, Chapter 184  
97           **76-5-203**, as last amended by Laws of Utah 2022, Chapter 181  
98           **76-6-513**, as last amended by Laws of Utah 2023, Chapter 111  
99           **76-8-101**, as last amended by Laws of Utah 2019, Chapter 211  
100          **76-8-102**, as enacted by Laws of Utah 1973, Chapter 196  
101          **76-8-103**, as last amended by Laws of Utah 1998, Chapter 92  
102          **76-8-104**, as last amended by Laws of Utah 1991, Chapter 215  
103          **76-8-105**, as repealed and reenacted by Laws of Utah 1998, Chapter 92  
104          **76-8-106**, as enacted by Laws of Utah 1973, Chapter 196  
105          **76-8-107**, as last amended by Laws of Utah 1974, Chapter 32  
106          **76-8-108**, as last amended by Laws of Utah 1985, Chapter 21  
107          **76-8-110**, as last amended by Laws of Utah 1992, Chapter 128  
108          **76-8-201**, as enacted by Laws of Utah 1973, Chapter 196  
109          **76-8-202**, as last amended by Laws of Utah 1991, Chapter 241  
110          **76-8-203**, as last amended by Laws of Utah 2011, Chapter 336  
111          **76-8-301**, as last amended by Laws of Utah 2020, Chapter 165  
112          **76-8-301.5**, as last amended by Laws of Utah 2019, Chapter 411  
113          **76-8-302**, as enacted by Laws of Utah 1973, Chapter 196  
114          **76-8-303**, as enacted by Laws of Utah 1973, Chapter 196  
115          **76-8-305**, as last amended by Laws of Utah 2017, Chapter 312  
116          **76-8-305.5**, as last amended by Laws of Utah 2018, Chapter 133  
117          **76-8-306**, as last amended by Laws of Utah 2021, Chapter 262  
118          **76-8-306.5**, as enacted by Laws of Utah 2007, Chapter 155  
119          **76-8-307**, as enacted by Laws of Utah 1973, Chapter 196  
120          **76-8-308**, as last amended by Laws of Utah 1991, Chapter 241  
121          **76-8-309**, as last amended by Laws of Utah 2022, Chapter 181  
122          **76-8-311.1**, as last amended by Laws of Utah 2023, Chapter 330  
123          **76-8-311.3**, as last amended by Laws of Utah 2023, Chapter 330  
124          **76-8-312**, as last amended by Laws of Utah 1974, Chapter 32

125        **76-8-313**, as last amended by Laws of Utah 1996, Chapter 45  
126        **76-8-316**, as last amended by Laws of Utah 2022, Chapter 181  
127        **76-8-317**, as last amended by Laws of Utah 2013, Chapter 295  
128        **76-8-318**, as last amended by Laws of Utah 2022, Chapters 181, 335  
129        **76-8-402**, as last amended by Laws of Utah 2020, Chapter 61  
130        **76-8-403**, as last amended by Laws of Utah 2020, Chapter 61  
131        **76-8-405**, as enacted by Laws of Utah 1973, Chapter 196  
132        **76-8-406**, as enacted by Laws of Utah 1973, Chapter 196  
133        **76-8-407**, as enacted by Laws of Utah 1973, Chapter 196  
134        **76-8-408**, as enacted by Laws of Utah 1973, Chapter 196  
135        **76-8-409**, as last amended by Laws of Utah 1991, Chapter 5  
136        **76-8-410**, as enacted by Laws of Utah 1973, Chapter 196  
137        **76-8-411**, as enacted by Laws of Utah 1973, Chapter 196  
138        **76-8-412**, as enacted by Laws of Utah 1973, Chapter 196  
139        **76-8-413**, as enacted by Laws of Utah 1973, Chapter 196  
140        **76-8-414**, as enacted by Laws of Utah 1973, Chapter 196  
141        **76-8-415**, as enacted by Laws of Utah 1973, Chapter 196  
142        **76-8-416**, as enacted by Laws of Utah 1973, Chapter 196  
143        **76-8-417**, as enacted by Laws of Utah 1973, Chapter 196  
144        **76-8-418**, as last amended by Laws of Utah 2022, Chapter 335  
145        **76-8-419**, as last amended by Laws of Utah 2002, Chapter 166  
146        **76-8-420**, as last amended by Laws of Utah 2007, Chapter 229  
147        **76-8-501**, as last amended by Laws of Utah 2018, Chapter 298  
148        **76-8-502**, as last amended by Laws of Utah 1997, Chapter 324  
149        **76-8-503**, as last amended by Laws of Utah 2014, Chapter 167  
150        **76-8-504**, as last amended by Laws of Utah 2022, Chapter 328  
151        **76-8-504.5**, as enacted by Laws of Utah 1999, Chapter 215  
152        **76-8-504.6**, as last amended by Laws of Utah 2015, Chapter 131  
153        **76-8-506**, as last amended by Laws of Utah 2005, Chapter 92  
154        **76-8-507**, as last amended by Laws of Utah 2002, Chapter 42

155        **76-8-508**, as last amended by Laws of Utah 2004, Chapter 140  
156        **76-8-508.3**, as enacted by Laws of Utah 2004, Chapter 140  
157        **76-8-508.5**, as last amended by Laws of Utah 1992, Chapter 219  
158        **76-8-509**, as enacted by Laws of Utah 1973, Chapter 196  
159        **76-8-510.5**, as last amended by Laws of Utah 2014, Chapter 167  
160        **76-8-511**, as last amended by Laws of Utah 2003, Chapter 238  
161        **76-8-512**, as last amended by Laws of Utah 2013, First Special Session, Chapter 4  
162        **76-8-513**, as enacted by Laws of Utah 1973, Chapter 196  
163        **76-8-515**, as enacted by Laws of Utah 2023, Chapter 179  
164        **76-8-601**, as last amended by Laws of Utah 2008, Chapter 3  
165        **76-8-602**, as last amended by Laws of Utah 1990, Chapter 59  
166        **76-8-603**, as last amended by Laws of Utah 1990, Chapter 59  
167        **76-8-703**, as repealed and reenacted by Laws of Utah 2013, Chapter 257  
168        **76-8-705**, as last amended by Laws of Utah 2013, Chapter 257  
169        **76-8-802**, as enacted by Laws of Utah 1973, Chapter 196  
170        **76-8-803**, as enacted by Laws of Utah 1973, Chapter 196  
171        **76-8-804**, as enacted by Laws of Utah 1973, Chapter 196  
172        **76-8-805**, as enacted by Laws of Utah 1973, Chapter 196  
173        **76-8-807**, as enacted by Laws of Utah 1973, Chapter 196  
174        **76-8-809**, as last amended by Laws of Utah 2023, Chapter 435  
175        **76-8-810**, as enacted by Laws of Utah 1973, Chapter 196  
176        **76-8-811**, as last amended by Laws of Utah 1995, Chapter 20  
177        **76-8-901**, as enacted by Laws of Utah 1973, Chapter 196  
178        **76-8-902**, as enacted by Laws of Utah 1973, Chapter 196  
179        **76-8-903**, as enacted by Laws of Utah 1973, Chapter 196  
180        **76-8-904**, as enacted by Laws of Utah 1973, Chapter 196  
181        **76-8-1201**, as last amended by Laws of Utah 2015, Chapter 221  
182        **76-8-1203**, as last amended by Laws of Utah 2010, Chapter 94  
183        **76-8-1207**, as last amended by Laws of Utah 2000, Chapter 48  
184        **76-8-1301**, as last amended by Laws of Utah 2010, Chapter 193  
185        **76-8-1402**, as enacted by Laws of Utah 2004, Chapter 107

186       **76-8-1403**, as last amended by Laws of Utah 2018, Chapter 133  
187       **76-9-802**, as last amended by Laws of Utah 2021, Chapter 64  
188       **76-9-902**, as last amended by Laws of Utah 2020, Chapter 394  
189       **76-9-1008**, as last amended by Laws of Utah 2013, Chapter 278  
190       **76-10-306**, as last amended by Laws of Utah 2010, Chapter 61  
191       **76-10-1602**, as last amended by Laws of Utah 2023, Chapters 34, 111, 139, and 330  
192       **77-23a-8**, as last amended by Laws of Utah 2023, Chapter 111  
193       **77-36-1**, as last amended by Laws of Utah 2022, Chapters 185, 430  
194       **77-36-1.1**, as last amended by Laws of Utah 2023, Chapters 111, 184  
195       **77-37-3**, as last amended by Laws of Utah 2023, Chapter 448

196   ENACTS:

197       **53B-20-107**, Utah Code Annotated 1953  
198       **76-8-106.1**, Utah Code Annotated 1953  
199       **76-8-301.2**, Utah Code Annotated 1953  
200       **76-8-309.1**, Utah Code Annotated 1953  
201       **76-8-309.2**, Utah Code Annotated 1953  
202       **76-8-311.2**, Utah Code Annotated 1953  
203       **76-8-311.4**, Utah Code Annotated 1953  
204       **76-8-311.6**, Utah Code Annotated 1953  
205       **76-8-311.7**, Utah Code Annotated 1953  
206       **76-8-311.8**, Utah Code Annotated 1953  
207       **76-8-311.9**, Utah Code Annotated 1953  
208       **76-8-311.10**, Utah Code Annotated 1953  
209       **76-8-316.2**, Utah Code Annotated 1953  
210       **76-8-316.4**, Utah Code Annotated 1953  
211       **76-8-316.6**, Utah Code Annotated 1953  
212       **76-8-320**, Utah Code Annotated 1953  
213       **76-8-409.2**, Utah Code Annotated 1953  
214       **76-8-416.2**, Utah Code Annotated 1953  
215       **76-8-508.7**, Utah Code Annotated 1953

- 216           **76-8-604**, Utah Code Annotated 1953
- 217           **76-8-1203.1**, Utah Code Annotated 1953
- 218           **76-8-1203.3**, Utah Code Annotated 1953
- 219           **76-8-1203.5**, Utah Code Annotated 1953
- 220           **76-8-1203.7**, Utah Code Annotated 1953
- 221           **76-8-1302**, Utah Code Annotated 1953
- 222           **76-8-1303**, Utah Code Annotated 1953
- 223           **76-8-1304**, Utah Code Annotated 1953
- 224   RENUMBERS AND AMENDS:
- 225           **76-8-319**, (Renumbered from 76-8-311.5, as renumbered and amended by Laws of
- 226           Utah 2021, Chapter 261)
- 227   REPEALS:
- 228           **76-8-314**, as last amended by Laws of Utah 1996, Chapter 45
- 229           **76-8-315**, as enacted by Laws of Utah 1983, Chapter 330
- 230           **76-8-404**, as last amended by Laws of Utah 2020, Chapter 61
- 231           **76-8-505**, as last amended by Laws of Utah 1997, Chapter 324
- 232           **76-8-701**, as last amended by Laws of Utah 2013, Chapters 10, 257
- 233           **76-8-702**, as last amended by Laws of Utah 2013, Chapter 257
- 234           **76-8-707**, as last amended by Laws of Utah 1993, Chapter 234
- 235           **76-8-709**, as last amended by Laws of Utah 2013, Chapter 257
- 236           **76-8-716**, as enacted by Laws of Utah 1973, Chapter 196
- 237           **76-8-717**, as last amended by Laws of Utah 2013, Chapter 257
- 238           **76-8-801**, as enacted by Laws of Utah 1973, Chapter 196
- 239           **76-8-806**, as last amended by Laws of Utah 1997, Chapter 296
- 240           **76-8-808**, as enacted by Laws of Utah 1973, Chapter 196
- 241           **76-8-1101**, as last amended by Laws of Utah 2014, Chapter 52
- 242           **76-8-1202**, as last amended by Laws of Utah 2023, Chapter 330
- 243           **76-8-1204**, as last amended by Laws of Utah 2000, Chapter 48
- 244           **76-8-1205**, as last amended by Laws of Utah 2015, Chapter 221
- 245           **76-8-1206**, as last amended by Laws of Utah 2012, Chapter 41
- 246           **76-8-1401**, as enacted by Laws of Utah 2004, Chapter 107

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

Section 1. Section **17-22-5** is amended to read:

**17-22-5. Sheriff's classification of jail inmates -- Classification criteria --  
Alternative incarceration programs -- Limitation.**

(1) Except as provided in Subsection (4), the sheriff shall adopt and implement written policies for admission of prisoners to the county jail and the classification of persons incarcerated in the jail which shall provide for the separation of prisoners by gender and by such other factors as may reasonably provide for the safety and well-being of inmates and the community. To the extent authorized by law, any written admission policies shall be applied equally to all entities using the county correctional facilities.

(2) Except as provided in Subsection (4), each county sheriff shall assign prisoners to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

(3) (a) Except as provided in Subsection (4), a county sheriff may develop and implement alternative incarceration programs that may or may not involve housing a prisoner in a jail facility.

(b) A prisoner housed under an alternative incarceration program under Subsection (3)(a) shall be considered to be in the full custody and control of the sheriff for purposes of ~~[Section]~~ Sections 76-8-309 and 76-8-309.1.

(c) A prisoner may not be placed in an alternative incarceration program under Subsection (3)(a) unless:

(i) the jail facility is at maximum operating capacity, as established under Subsection 17-22-5.5(2); or

(ii) ordered by the court.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail persons sentenced to the Department of Corrections.

Section 2. Section **26B-6-205** is amended to read:

**26B-6-205. Reporting requirements -- Investigation -- Exceptions -- Immunity --  
Penalties -- Nonmedical healing.**

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or

exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse, neglect, or exploitation from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26B-2-238, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Professional Licensing if the individual is a health care provider, as defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508 or 76-8-508.7, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason

that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 3. Section **35A-3-603** is amended to read:

**35A-3-603. Civil liability for overpayment.**

(1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs before receiving notice.

(2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.

(3) A person who knowingly assists a recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

(4) (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally, knowingly, and recklessly" are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, including committing any of the acts or omissions described in Sections ~~[76-8-1203, 76-8-1204, or 76-8-1205]~~ 76-8-1203.1, 76-8-1203.3, 76-8-1203.5, or 76-8-1203.7.

(b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:

(i) a civil penalty of 10% of the amount of the overpayment, except for overpayments related to assistance for child care services;

(ii) a civil penalty of 50% of the amount of the overpayment for overpayments related to assistance for child care services;

(iii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); and

(iv) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under Subsections (4)(b)(iii) and (iv) is for:

(i) 12 months for a first offense;

(ii) 24 months for a second offense; and

(iii) permanently for a third offense.

(5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

(6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

(7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(8) Jurisdiction over benefits is continuous.

(9) This chapter does not preclude the Department of Health and Human Services from carrying out its responsibilities under Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

Section 4. Section **35A-3-604** is amended to read:

**35A-3-604. Obligor presumed to have notice of department's rights -- Authority to administer oaths, issue subpoenas, and compel witnesses and production of documents -- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative procedures.**

(1) An obligor is presumed to have received notice of the rights of the department under this part upon engaging in this state in any of the acts described in Subsections 35A-3-603(3) and (4) or Section ~~[76-8-1203, 76-8-1204, or 76-8-1205]~~ 76-8-1203.1, 76-8-1203.3, 76-8-1203.5, or 76-8-1203.7.

(2) For the purposes of this part, the department may administer oaths and certify official acts, issue subpoenas, and compel witnesses and the production of business records, documents, and evidence.

(3) (a) Except when an overpayment results from administrative error, the department may recover from the obligor:

- (i) reasonable ~~[attorneys']~~ attorney fees;
- (ii) costs incurred in pursuing administrative remedies under this part; and
- (iii) interest at the rate of 1% a month accruing from the date an administrative or judicial order is issued determining the amount due under this part.

(b) The department may recover interest, attorney fees, and costs, if notice of the assessment has been included in a notice of agency action issued in compliance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make, amend, and enforce rules to carry out the provisions of this part.

(5) Service of all notices and orders under this part shall comply with:

- (a) Title 63G, Chapter 4, Administrative Procedures Act;
- (b) Utah Rules of Civil Procedure; or
- (c) rules made by the department under this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

Section 5. Section ~~35A-4-304~~ is amended to read:

**35A-4-304. Special provisions regarding transfers of unemployment experience and assignment rates.**

(1) As used in this section:

(a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(b) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal Revenue Code of 1986.

(c) "Trade or business" includes the employer's workforce.

(d) "Violate or attempt to violate" includes intent to evade, misrepresentation, or willful nondisclosure.

(2) Notwithstanding any other provision of this chapter, Subsections (3) and (4) shall apply regarding assignment of rates and transfers of unemployment experience.

(3) (a) If an employer transfers its trade or business, or a portion of its trade or business, to another employer and, at the time of the transfer, there is common ownership, management, or control of the employers, then the unemployment experience attributable to each employer shall be combined into a common experience rate calculation.

(b) The contribution rates of the employers shall be recalculated and made effective upon the date of the transfer of trade or business as determined by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) If one or more of the employers is a qualified employer at the time of the transfer, then all employing units that are party to a transfer described in Subsection (3)(a) of this section shall be assigned an overall contribution rate under Subsection 35A-4-303(4), using combined unemployment experience rating factors, for the rate year during which the transfer occurred and for the subsequent three rate years.

(ii) If none of the employing units is a qualified employer at the time of the transfer, then all employing units that are party to the transfer described in Subsection (3)(a) shall be assigned the highest overall contribution rate applicable at the time of the transfer to any employer who is party to the acquisition for the rate year during which the transfer occurred and for subsequent rate years until the time when one or more of the employing units is a qualified employer.

(iii) Once one or more employing units described in Subsection (3)(c)(ii) is a qualified employer, all the employing units shall be assigned an overall rate under Subsection 35A-4-303(4), using combined unemployment experience rating factors for subsequent rate years, not to exceed three years following the year of the transfer.

(d) The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of its trade or business when, as the result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and the trade or business is now performed by the employer to whom the workforce is transferred.

(4) (a) Whenever a person is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business may not be transferred to that person if the division finds that the person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(b) The person shall be assigned the applicable new employer rate under Subsection 35A-4-303(5).

(c) In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the division shall use objective factors which may include:

- (i) the cost of acquiring the business;
- (ii) whether the person continued the business enterprise of the acquired business;
- (iii) how long the business enterprise was continued; or
- (iv) whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(5) (a) If a person knowingly violates or attempts to violate Subsection (3) or (4) or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation of any of those subsections or provisions, the person is subject to the following penalties:

(i) (A) If the person is an employer, then the employer shall be assigned an overall contribution rate of 5.4% for the rate year during which the violation or attempted violation occurred and for the subsequent rate year.

(B) If the person's business is already at 5.4% for any year, or if the amount of increase in the person's rate would be less than 2% for that year, then a penalty surcharge of contributions of 2% of taxable wages shall be imposed for the rate year during which the violation or attempted violation occurred and for the subsequent rate year.

(ii) (A) If the person is not an employer, the person shall be subject to a civil penalty of not more than \$5,000.

(B) The fine shall be deposited in the penalty and interest account established under Section 35A-4-506.

(b) (i) In addition to the penalty imposed by Subsection (5)(a), a violation of this section may be prosecuted as unemployment insurance fraud.

(ii) The determination of the degree of an offense shall be measured by the total value of all contributions avoided or reduced or contributions sought to be avoided or reduced by the unlawful conduct as applied to the degrees listed under ~~[Subsection] [76-8-1301(2)(a)]~~ Section 76-8-1302 or 76-8-1303.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to identify the transfer or acquisition of a business for purposes of this section.

(7) This section shall be interpreted and applied in a manner that meets the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

Section 6. Section **35A-4-305** is amended to read:

**35A-4-305. Collection of contributions -- Unpaid contributions to bear interest -- Offer to compromise.**

(1) (a) Contributions unpaid on the date on which they are due and payable, as prescribed by the division, shall bear interest at the rate of 1% per month from and after that date until payment plus accrued interest is received by the division.

(b) (i) Contribution reports not made and filed by the date on which they are due as prescribed by the division are subject to a penalty to be assessed and collected in the same manner as contributions due under this section equal to 5% of the contribution due if the failure to file on time was not more than 15 days, with an additional 5% for each additional 15 days or fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and not less than \$25 with respect to each reporting period.

(ii) If a report is filed after the required time and it is shown to the satisfaction of the division or its authorized representative that the failure to file was due to a reasonable cause and not to willful neglect, no addition shall be made to the contribution.

(c) (i) If contributions are unpaid after 10 days from the date of the mailing or personal delivery by the division or its authorized representative, of a written demand for payment, there shall attach to the contribution, to be assessed and collected in the same manner as contributions due under this section, a penalty equal to 5% of the contribution due.

(ii) A penalty may not attach if within 10 days after the mailing or personal delivery, arrangements for payment have been made with the division, or its authorized representative,

and payment is made in accordance with those arrangements.

(d) The division shall assess as a penalty a service charge, in addition to any other penalties that may apply, in an amount not to exceed the service charge imposed by Section 7-15-1 for dishonored instruments if:

(i) any amount due the division for contributions, interest, other penalties or benefit overpayments is paid by check, draft, order, or other instrument; and

(ii) the instrument is dishonored or not paid by the institution against which it is drawn.

(e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit overpayments, contributions, interest, penalties, and assessed costs, uncollected three years after they become due, may be charged as uncollectible and removed from the records of the division if:

(i) no assets belonging to the liable person and subject to attachment can be found; and

(ii) in the opinion of the division there is no likelihood of collection at a future date.

(f) Interest and penalties collected in accordance with this section shall be paid into the Special Administrative Expense Account created by Section 35A-4-506.

(g) Action required for the collection of sums due under this chapter is subject to the applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

(2) (a) If an employer fails to file a report when prescribed by the division for the purpose of determining the amount of the employer's contribution due under this chapter, or if the report when filed is incorrect or insufficient or is not satisfactory to the division, the division may determine the amount of wages paid for employment during the period or periods with respect to which the reports were or should have been made and the amount of contribution due from the employer on the basis of any information it may be able to obtain.

(b) The division shall give written notice of the determination to the employer.

(c) The determination is considered correct unless:

(i) the employer, within 10 days after mailing or personal delivery of notice of the determination, applies to the division for a review of the determination as provided in Section 35A-4-508; or

(ii) unless the division or its authorized representative of its own motion reviews the determination.

(d) The amount of contribution determined under Subsection (2)(a) is subject to

588 penalties and interest as provided in Subsection (1).

589 (3) (a) If, after due notice, an employer defaults in the payment of contributions,  
590 interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit  
591 overpayments and penalties on the overpayments, the amount due shall be collectible by civil  
592 action in the name of the division, and the employer adjudged in default shall pay the costs of  
593 the action.

594 (b) Civil actions brought under this section to collect contributions, interest, or  
595 penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

596 (i) heard by the court at the earliest possible date; and

597 (ii) entitled to preference upon the calendar of the court over all other civil actions  
598 except:

599 (A) petitions for judicial review under this chapter; and

600 (B) cases arising under the workers' compensation law of this state.

601 (c) (i) (A) To collect contributions, interest, or penalties, or benefit overpayments and  
602 penalties due from employers or claimants located outside Utah, the division may employ  
603 private collectors providing debt collection services outside Utah.

604 (B) Accounts may be placed with private collectors only after the employer or claimant  
605 has been given a final notice that the division intends to place the account with a private  
606 collector for further collection action.

607 (C) The notice shall advise the employer or claimant of the employer's or claimant's  
608 rights under this chapter and the applicable rules of the department.

609 (ii) (A) A private collector may receive as compensation up to 25% of the lesser of the  
610 amount collected or the amount due, plus the costs and fees of any civil action or postjudgment  
611 remedy instituted by the private collector with the approval of the division.

612 (B) The employer or claimant shall be liable to pay the compensation of the collector,  
613 costs, and fees in addition to the original amount due.

614 (iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15  
615 U.S.C. Sec. 1692 et seq.

616 (iv) (A) A civil action may not be maintained by a private collector without specific  
617 prior written approval of the division.

618 (B) When division approval is given for civil action against an employer or claimant,

the division may cooperate with the private collector to the extent necessary to effect the civil action.

(d) (i) Notwithstanding Section 35A-4-312, the division may disclose the contribution, interest, penalties or benefit overpayments and penalties, costs due, the name of the employer or claimant, and the employer's or claimant's address and telephone number when any collection matter is referred to a private collector under Subsection (3)(c).

(ii) A private collector is subject to the confidentiality requirements and penalty provisions provided in ~~[Section]~~ Sections 35A-4-312 and ~~[Subsection 76-8-1301(4)]~~ 76-8-1304, except to the extent disclosure is necessary in a civil action to enforce collection of the amounts due.

(e) An action taken by the division under this section may not be construed to be an election to forego other collection procedures by the division.

(4) (a) In the event of a distribution of an employer's assets under an order of a court under the laws of Utah, including a receivership, assignment for benefits of creditors, adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than \$400 to each claimant, earned within five months of the commencement of the proceeding.

(b) If an employer commences a proceeding in the Federal Bankruptcy Court under a chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

(5) (a) In addition and as an alternative to any other remedy provided by this chapter and provided that no appeal or other proceeding for review provided by this chapter is then pending and the time for taking it has expired, the division may issue a warrant in duplicate, under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of a delinquent employer or claimant found within the sheriff's county for the payment of the contributions due, with the added penalties, interest, or benefit overpayment and penalties, and costs, and to return the warrant to the division and pay into the fund the money collected by virtue of the warrant by a time to be

specified in the warrant, not more than 60 days from the date of the warrant.

(b) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the duplicate with the clerk of the district court in the sheriff's county.

(ii) The clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate columns the amount of the contribution, penalties, interest, or benefit overpayment and penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

(c) The amount of the docketed warrant shall:

(i) have the force and effect of an execution against all personal property of the delinquent employer; and

(ii) become a lien upon the real property of the delinquent employer or claimant in the same manner and to the same extent as a judgment duly rendered by a district court and docketed in the office of the clerk.

(d) After docketing, the sheriff shall:

(i) proceed in the same manner as is prescribed by law with respect to execution issued against property upon judgments of a court of record; and

(ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be collected in the same manner.

(6) (a) Contributions imposed by this chapter are a lien upon the property of an employer liable for the contribution required to be collected under this section who shall sell out the employer's business or stock of goods or shall quit business, if the employer fails to make a final report and payment on the date subsequent to the date of selling or quitting business on which they are due and payable as prescribed by rule.

(b) (i) An employer's successor, successors, or assigns, if any, are required to withhold sufficient of the purchase money to cover the amount of the contributions and interest or penalties due and payable until the former owner produces a receipt from the division showing that they have been paid or a certificate stating that no amount is due.

(ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase money, the purchaser is personally liable for the payment of the amount of the contributions required to be paid by the former owner, interest and penalties accrued and unpaid by the former owner, owners, or assignors.

(7) (a) If an employer is delinquent in the payment of a contribution, the division may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to the employer, or owing any debts to the employer at the time of the receipt by them of the notice.

(b) A person notified under Subsection (7)(a) shall neither transfer nor make any other disposition of the credits, other personal property, or debts until:

(i) the division has consented to a transfer or disposition; or

(ii) 20 days after the receipt of the notice.

(c) All persons notified under Subsection (7)(a) shall, within five days after receipt of the notice, advise the division of credits, other personal property, or other debts in their possession, under their control or owing by them, as the case may be.

(8) (a) (i) Each employer shall furnish the division necessary information for the proper administration of this chapter and shall include wage information for each employee, for each calendar quarter.

(ii) The information shall be furnished at a time, in the form, and to those individuals as the department may by rule require.

(b) (i) Each employer shall furnish each individual worker who is separated that information as the department may by rule require, and shall furnish within 48 hours of the receipt of a request from the division a report of the earnings of any individual during the individual's base-period.

(ii) The report shall be on a form prescribed by the division and contain all information prescribed by the division.

(c) (i) For each failure by an employer to conform to this Subsection (8) the division shall, unless good cause is shown, assess a \$50 penalty if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed \$250 per filing.

(iii) The penalty is to be collected in the same manner as contributions due under this chapter.

(d) (i) The division shall prescribe rules providing standards for determining which

contribution reports shall be filed on magnetic or electronic media or in other machine-readable form.

(ii) In prescribing these rules, the division:

(A) may not require an employer to file contribution reports on magnetic or electronic media unless the employer is required to file wage data on at least 250 employees during any calendar quarter or is an authorized employer representative who files quarterly tax reports on behalf of 100 or more employers during any calendar quarter;

(B) shall take into account, among other relevant factors, the ability of the employer to comply at reasonable cost with the requirements of the rules; and

(C) may require an employer to post a bond for failure to comply with the rules required by this Subsection (8)(d).

(9) (a) (i) An employer liable for payments in lieu of contributions shall file Reimbursable Employment and Wage Reports.

(ii) The reports are due on the last day of the month that follows the end of each calendar quarter unless the division, after giving notice, changes the due date.

(iii) A report postmarked on or before the due date is considered timely.

(b) (i) Unless the employer can show good cause, the division shall assess a \$50 penalty against an employer who does not file Reimbursable Employment and Wage Reports within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed \$250 per filing.

(iii) The division shall assess and collect the penalties referred to in this Subsection (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.

(10) If a person liable to pay a contribution or benefit overpayment imposed by this chapter neglects or refuses to pay it after demand, the amount, including any interest, additional amount, addition to contributions, or assessable penalty, together with any additional accruable costs, shall be a lien in favor of the division upon all property and rights to property, whether real or personal belonging to the person.

(11) (a) The lien imposed by Subsection (10) arises at the time the assessment, as defined in the department rules, is made and continues until the liability for the amount

assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

(b) (i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a warrant with the clerk of the district court.

(ii) For the purposes of this Subsection (11)(b):

(A) "Judgment lien creditor" means a person who obtains a valid judgment of a court of record for recovery of specific property or a sum certain of money, and who in the case of a recovery of money, has a perfected lien under the judgment on the property involved. A judgment lien does not include inchoate liens such as attachment or garnishment liens until they ripen into a judgment. A judgment lien does not include the determination or assessment of a quasi-judicial authority, such as a state or federal taxing authority.

(B) "Mechanics' lien holder" means any person who has a lien on real property, or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property. A person has a lien on the earliest date the lien becomes valid against subsequent purchasers without actual notice, but not before the person begins to furnish the services, labor, or materials.

(C) "Person" means:

(I) an individual;

(II) a trust;

(III) an estate;

(IV) a partnership;

(V) an association;

(VI) a company;

(VII) a limited liability company;

(VIII) a limited liability partnership; or

(IX) a corporation.

(D) "Purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest, other than a lien or security interest, in property which is valid under state law against subsequent purchasers without actual notice.

(E) "Security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or

liability. A security interest exists at any time:

(I) the property is in existence and the interest has become protected under the law against a subsequent judgment lien arising out of an unsecured obligation; and

(II) to the extent that, at that time, the holder has parted with money or money's worth.

(12) (a) Except in cases involving a violation of unemployment compensation provisions under Section 76-8-1301, 76-8-1302, 76-8-1303, 76-8-1304, Subsection 35A-4-304(5), or Subsection 35A-4-405(5), and at the discretion of the division, the division may accept an offer in compromise from an employer or claimant to reduce past due debt arising from contributions or benefit overpayments imposed under this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules for allowing an offer in compromise provided under Subsection (12)(a).

Section 7. Section **35A-4-312** is amended to read:

**35A-4-312. Records.**

(1) (a) An employing unit shall keep true and accurate work records containing information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in a manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

805 (A) Title 34, Chapter 23, Employment of Minors;  
806 (B) Title 34, Chapter 28, Payment of Wages;  
807 (C) Title 34, Chapter 40, Utah Minimum Wage Act; or  
808 (D) Title 34A, Utah Labor Code;  
809 (iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and  
810 Section 63G-2-207; or  
811 (iv) under the terms of a written agreement between the Office of State Debt Collection  
812 and the division as provided in Subsection (5).  
813 (b) The information obtained by the division under this section shall be disclosed to:  
814 (i) a party to an unemployment insurance hearing before an administrative law judge of  
815 the department or a review by the Workforce Appeals Board to the extent necessary for the  
816 proper presentation of the party's case; or  
817 (ii) an employer, upon request in writing for information concerning a claim for a  
818 benefit with respect to a former employee of the employer.  
819 (5) The information obtained by the division under this section may be disclosed to:  
820 (a) an employee of the department in the performance of the employee's duties in  
821 administering this chapter or other programs of the department;  
822 (b) an employee of the Labor Commission for the purpose of carrying out the programs  
823 administered by the Labor Commission;  
824 (c) an employee of the Department of Commerce for the purpose of carrying out the  
825 programs administered by the Department of Commerce;  
826 (d) an employee of the governor's office or another state governmental agency  
827 administratively responsible for statewide economic development, to the extent necessary for  
828 economic development policy analysis and formulation;  
829 (e) an employee of another governmental agency that is specifically identified and  
830 authorized by federal or state law to receive the information for the purposes stated in the law  
831 authorizing the employee of the agency to receive the information;  
832 (f) an employee of a governmental agency or workers' compensation insurer to the  
833 extent the information will aid in:  
834 (i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:  
835 (A) a workers' compensation program; or

836 (B) public assistance funds; or  
837 (ii) the recovery of overpayments of workers' compensation or public assistance funds;  
838 (g) an employee of a law enforcement agency to the extent the disclosure is necessary  
839 to avoid a significant risk to public safety or in aid of a felony criminal investigation;  
840 (h) an employee of the State Tax Commission or the Internal Revenue Service for the  
841 purposes of:  
842 (i) audit verification or simplification;  
843 (ii) state or federal tax compliance;  
844 (iii) verification of a code or classification of the:  
845 (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of  
846 the President, Office of Management and Budget; or  
847 (B) 2002 North American Industry Classification System of the federal Executive  
848 Office of the President, Office of Management and Budget; and  
849 (iv) statistics;  
850 (i) an employee or contractor of the department or an educational institution, or other  
851 governmental entity engaged in workforce investment and development activities under the  
852 Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq., for the purpose of:  
853 (i) coordinating services with the department;  
854 (ii) evaluating the effectiveness of those activities; and  
855 (iii) measuring performance;  
856 (j) an employee of the Governor's Office of Economic Opportunity, for the purpose of  
857 periodically publishing in the Directory of Business and Industry, the name, address, telephone  
858 number, number of employees by range, code or classification of an employer, and type of  
859 ownership of Utah employers;  
860 (k) the public for any purpose following a written waiver by all interested parties of  
861 their rights to nondisclosure;  
862 (l) an individual whose wage data is submitted to the department by an employer, if no  
863 information other than the individual's wage data and the identity of the employer who  
864 submitted the information is provided to the individual;  
865 (m) an employee of the Insurance Department for the purpose of administering Title  
866 31A, Chapter 40, Professional Employer Organization Licensing Act;

(n) an employee of the Office of State Debt Collection for the purpose of collecting state accounts receivable as provided in Section 63A-3-502; or

(o) a creditor, under a court order, to collect on a judgment as provided in Section 35A-4-314.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a), (g), and (o), may be made if:

(a) the division determines that the disclosure will not have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Workforce Research and Analysis Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person or for a purpose other than one authorized in Subsection (4) or (5) violates [~~Subsection 76-8-1301(4)~~] Section 76-8-1304.

Section 8. Section **53-10-403** is amended to read:

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

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

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

898 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,  
899 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or  
900 (ii) on or after January 1, 2015, for any felony offense; or  
901 (e) is a minor under Subsection (3).

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

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

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

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

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

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

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

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

912 (iv) operating a motor vehicle with any amount of a controlled substance in an  
913 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
914 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

915 (v) a felony violation of enticing a minor, Section 76-4-401;

916 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

917 (vii) a felony violation of propelling a substance or object at a correctional officer, a  
918 peace officer, or an employee or a volunteer, including health care providers, Section  
919 76-5-102.6;

920 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

921 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human  
922 smuggling, Section 76-5-310.1;

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

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

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

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

927 (xiv) aggravated escape, [~~Subsection 76-8-309(2)~~] Section 76-8-309.1;

928 (xv) a felony violation of [~~assault on an elected official~~] threatened or attempted assault

929 on an elected official, Section [76-8-315] 76-8-313;  
930 (xvi) ~~[influencing, impeding, or retaliating against a judge or member of the Board of~~  
931 ~~Pardons and Parole]~~ threat with intent to impede, intimidate, interfere, or retaliate against a  
932 judge or a member of the Board of Pardons and Parole or acting against a family member of a  
933 judge or a member of the Board of Pardons and Parole, Section 76-8-316;  
934 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or  
935 a member of the Board of Pardons and Parole or acting against a family member of a judge or a  
936 member of the Board of Pardons and Parole, Section 76-8-316.2;  
937 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate  
938 against a judge or a member of the Board of Pardons and Parole or acting against a family  
939 member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;  
940 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against  
941 a judge or a member of the Board of Pardons and Parole or acting against a family member of a  
942 judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;  
943 ~~[(xvii)]~~ (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;  
944 ~~[(xviii)]~~ (xxi) ~~[assembly]~~ assembling for advocating criminal syndicalism or sabotage,  
945 Section 76-8-903;  
946 ~~[(xix)]~~ (xxii) a felony violation of sexual battery, Section 76-9-702.1;  
947 ~~[(xx)]~~ (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;  
948 ~~[(xxi)]~~ (xxiv) a felony violation of abuse or desecration of a dead human body, Section  
949 76-9-704;  
950 ~~[(xxii)]~~ (xxv) manufacture, possession, sale, or use of a weapon of mass destruction,  
951 Section 76-10-402;  
952 ~~[(xxiii)]~~ (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass  
953 destruction, Section 76-10-403;  
954 ~~[(xxiv)]~~ (xxvii) possession of a concealed firearm in the commission of a violent  
955 felony, Subsection 76-10-504(4);  
956 ~~[(xxv)]~~ (xxviii) assault with the intent to commit bus hijacking with a dangerous  
957 weapon, Subsection 76-10-1504(3);  
958 ~~[(xxvi)]~~ (xxix) commercial obstruction, Subsection 76-10-2402(2);  
959 ~~[(xxvii)]~~ (xxx) a felony violation of failure to register as a sex or kidnap offender,

960 Section 77-41-107;  
961 ~~[(xxviii)]~~ (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or  
962 ~~[(xxix)]~~ (xxxii) violation of condition for release after arrest under Section 78B-7-802.  
963 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated  
964 by the juvenile court due to the commission of any offense described in Subsection (2), and  
965 who:

966 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile  
967 court on or after July 1, 2002; or

968 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or  
969 after July 1, 2002, for an offense under Subsection (2).

970 Section 9. Section **53B-3-103** is amended to read:

971 **53B-3-103. Power of board to adopt rules and enact regulations.**

972 (1) The board may enact regulations governing the conduct of university and college  
973 students, faculty, and employees.

974 (2) (a) The board may:

975 (i) enact and authorize higher education institutions to enact traffic, parking, and  
976 related regulations governing all individuals on campuses and other facilities owned or  
977 controlled by the institutions or the board; and

978 (ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at  
979 higher education institutions:

980 (A) authorize higher education institutions to establish no more than one secure area at  
981 each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise  
982 restrict the lawful possession or carrying of firearms; and

983 (B) authorize a higher education institution to make a rule that allows a resident of a  
984 dormitory located at the institution to request only roommates who are not licensed to carry a  
985 concealed firearm under Section 53-5-704 or 53-5-705.

986 (b) In addition to the requirements and penalty prescribed in ~~[Subsections~~  
987 ~~76-8-311.1(3), (4), (5), and (6)]~~ Sections 76-8-311.1 and 76-8-311.2, the board shall make rules  
988 to ensure that:

989 (i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used  
990 to detect firearms, ammunition, or dangerous weapons contained in the personal property of or

on the person of any individual attempting to enter a secure area hearing room;

(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;

(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and

(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.

(c) (i) The board may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (2)(c)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections (2)(c)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

(d) (i) For purposes of this Subsection (2)(d), "face covering" means the same as that term is defined in Section 53G-9-210.

(ii) The board may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(iii) Subsection (2)(d)(ii) does not apply to an individual in a medical setting at an institution of higher education.

(3) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(4) The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from money owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

Section 10. Section **53B-20-107** is enacted to read:

**53B-20-107. Powers of chief administrative officer to order individuals off an institution of higher education's property.**

(1) As used in this section:

(a) "Chief administrative officer" means the president of an institution or an individual designated by the president.

(b) "Institution of higher education" means:

(i) a state institution of higher education as defined in Section 53B-3-102; or

(ii) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) It is the purpose of this section to:

(a) supplement and clarify the power vested in the governing board of each institution of higher education; and

(b) regulate, conduct, and enforce law and order on property owned, operated, or controlled by each institution of higher education.

(3) A chief administrative officer may order an individual to leave property that is owned, operated, or controlled by an institution of higher education if:

(a) the individual acts, or if the chief administrative officer has reasonable cause to believe that the individual intends to act, to:

(i) cause injury to an individual;

1053 (ii) cause damage to property;  
1054 (iii) commit a crime;  
1055 (iv) interfere with the peaceful conduct of the activities of the institution of higher  
1056 education;  
1057 (v) violate a rule or regulation of the institution of higher education if that rule or  
1058 regulation is not in conflict with state law; or  
1059 (vi) disrupt the institution of higher education, the institution's pupils, or the institution  
1060 of higher education's activities; or  
1061 (b) the individual is reckless as to whether the individual's actions will cause fear for  
1062 the safety of another individual.  
1063 (4) (a) If a law enforcement agency or security department of an institution of higher  
1064 education lacks sufficient manpower to deal effectively with a condition of unrest existing or  
1065 developing on a campus or related facility of the institution of higher education in the judgment  
1066 of the chief administrative officer, the chief administrative officer may call for assistance from  
1067 the county sheriff of the county, a city law enforcement agency, or the Department of Public  
1068 Safety.  
1069 (b) Upon receipt of the request under Subsection (4)(a), the county sheriff, a city law  
1070 enforcement agency, or the Department of Public Safety must render all necessary assistance  
1071 without expense to the institution of higher education.  
1072 (c) All personnel while rendering assistance to the institution of higher education shall  
1073 serve under the general direction of the chief administrative officer.  
1074 (5) Nothing in this section shall limit:  
1075 (a) the right or duty of a local law enforcement agency to enforce the law which the  
1076 local law enforcement agency had prior to this enactment; or  
1077 (b) the right of a state or local law enforcement agency to enforce the laws of this state.  
1078 Section 11. Section **59-1-401** is amended to read:  
1079 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
1080 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
1081 **interest.**  
1082 (1) As used in this section:  
1083 (a) "Tax, fee, or charge" means:

- 1084 (i) a tax, fee, or charge the commission administers under:  
1085 (A) this title;  
1086 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
1087 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;  
1088 (D) Section 19-6-410.5;  
1089 (E) Section 19-6-714;  
1090 (F) Section 19-6-805;  
1091 (G) Section 34A-2-202;  
1092 (H) Section 40-6-14; or  
1093 (I) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;  
1094 or  
1095 (ii) another amount that by statute is subject to a penalty imposed under this section.  
1096 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:  
1097 (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;  
1098 (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;  
1099 (iii) Chapter 2, Property Tax Act, except for Section 59-2-1309;  
1100 (iv) Chapter 3, Tax Equivalent Property Act; or  
1101 (v) Chapter 4, Privilege Tax.  
1102 (2) (a) The due date for filing a return is:  
1103 (i) if the person filing the return is not allowed by law an extension of time for filing  
1104 the return, the day on which the return is due as provided by law; or  
1105 (ii) if the person filing the return is allowed by law an extension of time for filing the  
1106 return, the earlier of:  
1107 (A) the date the person files the return; or  
1108 (B) the last day of that extension of time as allowed by law.  
1109 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a  
1110 return after the due date described in Subsection (2)(a).  
1111 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:  
1112 (i) \$20; or  
1113 (ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the return is filed no  
1114 later than five days after the due date described in Subsection (2)(a);

1115 (B) 5% of the unpaid tax, fee, or charge due on the return if the return is filed more  
1116 than five days after the due date but no later than 15 days after the due date described in  
1117 Subsection (2)(a); or

1118 (C) 10% of the unpaid tax, fee, or charge due on the return if the return is filed more  
1119 than 15 days after the due date described in Subsection (2)(a).

1120 (d) This Subsection (2) does not apply to:

1121 (i) an amended return; or

1122 (ii) a return with no tax due.

1123 (3) (a) Except as provided in Subsection (15), a person is subject to a penalty for  
1124 failure to pay a tax, fee, or charge if:

1125 (i) the person files a return on or before the due date for filing a return described in  
1126 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due  
1127 date;

1128 (ii) the person:

1129 (A) is subject to a penalty under Subsection (2)(b); and

1130 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
1131 due date for filing a return described in Subsection (2)(a);

1132 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

1133 (B) the commission estimates an amount of tax due for that person in accordance with  
1134 Subsection 59-1-1406(2);

1135 (iv) the person:

1136 (A) is mailed a notice of deficiency; and

1137 (B) within a 30-day period after the day on which the notice of deficiency described in  
1138 Subsection (3)(a)(iv)(A) is mailed:

1139 (I) does not file a petition for redetermination or a request for agency action; and

1140 (II) fails to pay the tax, fee, or charge due on a return;

1141 (v) (A) the commission:

1142 (I) issues an order constituting final agency action resulting from a timely filed petition  
1143 for redetermination or a timely filed request for agency action; or

1144 (II) is considered to have denied a request for reconsideration under Subsection  
1145 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed

1146 request for agency action; and

1147 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period

1148 after the date the commission:

1149 (I) issues the order constituting final agency action described in Subsection

1150 (3)(a)(v)(A)(I); or

1151 (II) is considered to have denied the request for reconsideration described in

1152 Subsection (3)(a)(v)(A)(II); or

1153 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date

1154 of a final judicial decision resulting from a timely filed petition for judicial review.

1155 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

1156 (i) \$20; or

1157 (ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the activated tax, fee,

1158 or charge due on the return is paid no later than five days after the due date for filing a return

1159 described in Subsection (2)(a);

1160 (B) 5% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or

1161 charge due on the return is paid more than five days after the due date for filing a return

1162 described in Subsection (2)(a) but no later than 15 days after that due date; or

1163 (C) 10% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or

1164 charge due on the return is paid more than 15 days after the due date for filing a return

1165 described in Subsection (2)(a).

1166 (4) (a) In the case of any underpayment of estimated tax or quarterly installments

1167 required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a

1168 penalty in an amount determined by applying the interest rate provided under Section 59-1-402

1169 plus four percentage points to the amount of the underpayment for the period of the

1170 underpayment.

1171 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the

1172 excess of the required installment over the amount, if any, of the installment paid on or before

1173 the due date for the installment.

1174 (ii) The period of the underpayment shall run from the due date for the installment to

1175 whichever of the following dates is the earlier:

1176 (A) the original due date of the tax return, without extensions, for the taxable year; or

1177 (B) with respect to any portion of the underpayment, the date on which that portion is  
1178 paid.

1179 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited  
1180 against unpaid required installments in the order in which the installments are required to be  
1181 paid.

1182 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
1183 person allowed by law an extension of time for filing a corporate franchise or income tax return  
1184 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
1185 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
1186 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
1187 including the extension of time, the person fails to pay:

1188 (i) for a person filing a corporate franchise or income tax return under Chapter 7,  
1189 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

1190 (ii) for a person filing an individual income tax return under Chapter 10, Individual  
1191 Income Tax Act, the payment required by Subsection 59-10-516(2).

1192 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the  
1193 extension of time for filing the return is an amount equal to 2% of the tax due on the return,  
1194 unpaid as of the day on which the return is due as provided by law.

1195 (6) If a person does not file a return within an extension of time allowed by Section  
1196 59-7-505 or 59-10-516, the person:

1197 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

1198 (b) is subject to a penalty in an amount equal to the sum of:

1199 (i) a late file penalty in an amount equal to the greater of:

1200 (A) \$20; or

1201 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as  
1202 provided by law, not including the extension of time; and

1203 (ii) a late pay penalty in an amount equal to the greater of:

1204 (A) \$20; or

1205 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is  
1206 due as provided by law, not including the extension of time.

1207 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided

1208 in this Subsection (7)(a).

1209 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,  
1210 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that  
1211 is due to negligence.

1212 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a  
1213 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire  
1214 underpayment.

1215 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,  
1216 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

1217 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or  
1218 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

1219 (b) If the commission determines that a person is liable for a penalty imposed under  
1220 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
1221 penalty.

1222 (i) The notice of proposed penalty shall:

1223 (A) set forth the basis of the assessment; and

1224 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

1225 (ii) Upon receipt of the notice of proposed penalty, the person against whom the  
1226 penalty is proposed may:

1227 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

1228 or

1229 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

1230 (iii) A person against whom a penalty is proposed in accordance with this Subsection  
1231 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with  
1232 the commission.

1233 (iv) (A) If the commission determines that a person is liable for a penalty under this  
1234 Subsection (7), the commission shall assess the penalty and give notice and demand for  
1235 payment.

1236 (B) The commission shall mail the notice and demand for payment described in  
1237 Subsection (7)(b)(iv)(A):

1238 (I) to the person's last-known address; and

1239 (II) in accordance with Section 59-1-1404.

1240 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not

1241 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

1242 (i) a court of competent jurisdiction issues a final unappealable judgment or order

1243 determining that:

1244 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

1245 or is a seller required to pay or collect and remit sales and use taxes under Subsection

1246 59-12-107(2)(b) or (2)(c); and

1247 (B) the commission or a county, city, or town may require the seller to collect a tax

1248 under Subsections 59-12-103(2)(a) through (e); or

1249 (ii) the commission issues a final unappealable administrative order determining that:

1250 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

1251 or is a seller required to pay or collect and remit sales and use taxes under Subsection

1252 59-12-107(2)(b) or (2)(c); and

1253 (B) the commission or a county, city, or town may require the seller to collect a tax

1254 under Subsections 59-12-103(2)(a) through (e).

1255 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not

1256 subject to the penalty under Subsection (7)(a)(ii) if:

1257 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order

1258 determining that:

1259 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

1260 or is a seller required to pay or collect and remit sales and use taxes under Subsection

1261 59-12-107(2)(b) or (2)(c); and

1262 (II) the commission or a county, city, or town may require the seller to collect a tax

1263 under Subsections 59-12-103(2)(a) through (e); or

1264 (B) the commission issues a final unappealable administrative order determining that:

1265 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

1266 or is a seller required to pay or collect and remit sales and use taxes under Subsection

1267 59-12-107(2)(b) or (2)(c); and

1268 (II) the commission or a county, city, or town may require the seller to collect a tax

1269 under Subsections 59-12-103(2)(a) through (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

1301 (A) a return;  
1302 (B) an affidavit;  
1303 (C) a claim; or  
1304 (D) a document similar to Subsections (11)(a)(i)(A) through (C);  
1305 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)  
1306 will be used in connection with any material matter administered by the commission; and  
1307 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection  
1308 with any material matter administered by the commission, would result in an understatement of  
1309 another person's liability for a tax, fee, or charge.

1310 (b) The following acts apply to Subsection (11)(a)(i):  
1311 (i) preparing any portion of a document described in Subsection (11)(a)(i);  
1312 (ii) presenting any portion of a document described in Subsection (11)(a)(i);  
1313 (iii) procuring any portion of a document described in Subsection (11)(a)(i);  
1314 (iv) advising in the preparation or presentation of any portion of a document described  
1315 in Subsection (11)(a)(i);  
1316 (v) aiding in the preparation or presentation of any portion of a document described in  
1317 Subsection (11)(a)(i);  
1318 (vi) assisting in the preparation or presentation of any portion of a document described  
1319 in Subsection (11)(a)(i); or  
1320 (vii) counseling in the preparation or presentation of any portion of a document  
1321 described in Subsection (11)(a)(i).

1322 (c) For purposes of Subsection (11)(a), the penalty:  
1323 (i) shall be imposed by the commission;  
1324 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which  
1325 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and  
1326 (iii) is in addition to any other penalty provided by law.

1327 (d) The commission may seek a court order to enjoin a person from engaging in  
1328 conduct that is subject to a penalty under this Subsection (11).

1329 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1330 commission may make rules prescribing the documents that are similar to Subsections  
1331 (11)(a)(i)(A) through (C).

(12) (a) [~~As provided in Section 76-8-1101, criminal~~] Criminal offenses and penalties are [as] provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

1363 (III) a claim; or  
1364 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and  
1365 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in  
1366 Subsection (12)(e)(i)(A):  
1367 (I) is false or fraudulent as to any material matter; and  
1368 (II) could be used in connection with any material matter administered by the  
1369 commission.  
1370 (ii) The following acts apply to Subsection (12)(e)(i):  
1371 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);  
1372 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);  
1373 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);  
1374 (D) advising in the preparation or presentation of any portion of a document described  
1375 in Subsection (12)(e)(i)(A);  
1376 (E) aiding in the preparation or presentation of any portion of a document described in  
1377 Subsection (12)(e)(i)(A);  
1378 (F) assisting in the preparation or presentation of any portion of a document described  
1379 in Subsection (12)(e)(i)(A); or  
1380 (G) counseling in the preparation or presentation of any portion of a document  
1381 described in Subsection (12)(e)(i)(A).  
1382 (iii) This Subsection (12)(e) applies:  
1383 (A) regardless of whether the person for which the document described in Subsection  
1384 (12)(e)(i)(A) is prepared or presented:  
1385 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or  
1386 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and  
1387 (B) in addition to any other penalty provided by law.  
1388 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the  
1389 penalty may not:  
1390 (A) be less than \$1,500; or  
1391 (B) exceed \$25,000.  
1392 (v) The commission may seek a court order to enjoin a person from engaging in  
1393 conduct that is subject to a penalty under this Subsection (12)(e).

1394 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1395 the commission may make rules prescribing the documents that are similar to Subsections  
1396 (12)(e)(i)(A)(I) through (III).

1397 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is  
1398 the later of six years:

1399 (i) from the date the tax should have been remitted; or

1400 (ii) after the day on which the person commits the criminal offense.

1401 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with  
1402 the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty  
1403 described in Subsection (13)(b) if the employer:

1404 (i) fails to file the form with the commission in an electronic format approved by the  
1405 commission as required by Subsection 59-10-406(8) or (9);

1406 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8)  
1407 or (9);

1408 (iii) fails to provide accurate information on the form; or

1409 (iv) fails to provide all of the information required by the Internal Revenue Service to  
1410 be contained on the form.

1411 (b) For purposes of Subsection (13)(a), the penalty is:

1412 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the  
1413 form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date  
1414 provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date  
1415 provided in Subsection 59-10-406(8) or (9);

1416 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the  
1417 form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date  
1418 provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

1419 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

1420 (A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or

1421 (B) fails to file the form.

1422 (14) Upon making a record of the commission's actions, and upon reasonable cause  
1423 shown, the commission may waive, reduce, or compromise any of the penalties or interest  
1424 imposed under this part.

(15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a penalty as described in Subsection (3) except that the penalty shall be:

(a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but does not pay some or all of the tax reported; and

(b) calculated based on the difference between the amount of tax reported and the amount of tax paid.

Section 12. Section **63G-12-402** is amended to read:

**63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years old who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

- 1456 (c) short-term, noncash, in-kind emergency disaster relief;
- 1457 (d) public health assistance for immunizations with respect to immunizable diseases
- 1458 and for testing and treatment of symptoms of communicable diseases whether or not the
- 1459 symptoms are caused by the communicable disease;
- 1460 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
- 1461 intervention, and short-term shelter, specified by the United States Attorney General, in the
- 1462 sole and unreviewable discretion of the United States Attorney General after consultation with
- 1463 appropriate federal agencies and departments, that:
- 1464 (i) deliver in-kind services at the community level, including through public or private
- 1465 nonprofit agencies;
- 1466 (ii) do not condition the provision of assistance, the amount of assistance provided, or
- 1467 the cost of assistance provided on the income or resources of the individual recipient; and
- 1468 (iii) are necessary for the protection of life or safety;
- 1469 (f) the exemption for paying the nonresident portion of total tuition as set forth in
- 1470 Section 53B-8-106;
- 1471 (g) an applicant for a license under Section 61-1-4, if the applicant:
- 1472 (i) is registered with the Financial Industry Regulatory Authority; and
- 1473 (ii) files an application with the state Division of Securities through the Central
- 1474 Registration Depository;
- 1475 (h) a state public benefit to be given to an individual under Title 49, Utah State
- 1476 Retirement and Insurance Benefit Act;
- 1477 (i) a home loan that will be insured, guaranteed, or purchased by:
- 1478 (i) the Federal Housing Administration, the Veterans Administration, or any other
- 1479 federal agency; or
- 1480 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
- 1481 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
- 1482 home loan that does not require verification under Subsection (3)(i);
- 1483 (k) an applicant for a license issued by the Department of Commerce or individual
- 1484 described in Subsection (1)(b), if the applicant or individual provides the Department of
- 1485 Commerce:
- 1486 (i) certification, under penalty of perjury, that the applicant or individual is:

1487 (A) a United States citizen;  
1488 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or  
1489 (C) lawfully present in the United States; and  
1490 (ii) (A) the number assigned to a driver license or identification card issued under Title  
1491 53, Chapter 3, Uniform Driver License Act; or  
1492 (B) the number assigned to a driver license or identification card issued by a state other  
1493 than Utah if, as part of issuing the driver license or identification card, the state verifies an  
1494 individual's lawful presence in the United States; and  
1495 (l) an applicant for:  
1496 (i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents'  
1497 Scholarship Program;  
1498 (ii) a New Century scholarship described in Section 53B-8-105;  
1499 (iii) a promise grant described in Section 53B-13a-104; or  
1500 (iv) a scholarship:  
1501 (A) for an individual who is a graduate of a high school located within Utah; and  
1502 (B) administered by an institution of higher education as defined in Section 53B-2-101.  
1503 (4) (a) An agency or political subdivision required to verify the lawful presence in the  
1504 United States of an applicant under this section shall require the applicant to certify under  
1505 penalty of perjury that:  
1506 (i) the applicant is a United States citizen; or  
1507 (ii) the applicant is:  
1508 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and  
1509 (B) lawfully present in the United States.  
1510 (b) The certificate required under this Subsection (4) shall include a statement advising  
1511 the signer that providing false information subjects the signer to penalties for perjury.  
1512 (5) An agency or political subdivision shall verify a certification required under  
1513 Subsection (4)(a)(ii) through the federal SAVE program.  
1514 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or  
1515 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject  
1516 to the criminal penalties applicable in this state for:  
1517 (i) making a written false statement under Section 76-8-504; and

1518 (ii) fraudulently obtaining:

1519 (A) public assistance program benefits under [~~Sections 76-8-1205 and 76-8-1206~~]

1520 Section 76-8-1203.1; or

1521 (B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303, or

1522 76-8-1304.

1523 (b) If the certification constitutes a false claim of United States citizenship under 18

1524 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United

1525 States Attorney General for the applicable district based upon the venue in which the

1526 application was made.

1527 (c) If an agency or political subdivision receives verification that a person making an

1528 application for a benefit, service, or license is not a qualified alien, the agency or political

1529 subdivision shall provide the information to the Office of the Attorney General unless

1530 prohibited by federal mandate.

1531 (7) An agency or political subdivision may adopt variations to the requirements of this

1532 section that:

1533 (a) clearly improve the efficiency of or reduce delay in the verification process; or

1534 (b) provide for adjudication of unique individual circumstances where the verification

1535 procedures in this section would impose an unusual hardship on a legal resident of Utah.

1536 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,

1537 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

1538 (9) A state agency or department that administers a program of state or local public

1539 benefits shall:

1540 (a) provide an annual report to the governor, the president of the Senate, and the

1541 speaker of the House regarding its compliance with this section; and

1542 (b) (i) monitor the federal SAVE program for application verification errors and

1543 significant delays;

1544 (ii) provide an annual report on the errors and delays to ensure that the application of

1545 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident

1546 of the state; and

1547 (iii) report delays and errors in the federal SAVE program to the United States

1548 Department of Homeland Security.

Section 13. Section **64-13-14.5** is amended to read:

**64-13-14.5. Limits of confinement place -- Release status -- Work release.**

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor the trust, by authorizing the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2) The department shall establish rules governing offenders on release status. A copy of the rules shall be furnished to the offender and to any employer or other person participating in the offender's release program. Any employer or other participating person shall agree in writing to abide by the rules and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate guidelines established by the Utah Sentencing Commission, including prosecution for escape under Section 76-8-309 or 76-8-309.1 and for unauthorized absence.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 14. Section **76-1-301** is amended to read:

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

1580 (1) As used in this section:

1581 (a) "Aggravating offense" means any offense incident to which a homicide was  
1582 committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

1583 (b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a  
1584 person other than a party as defined in Section 76-2-202 was killed in the course of the  
1585 commission, attempted commission, or immediate flight from the commission or attempted  
1586 commission of the offense.

1587 (2) Notwithstanding any other provisions of this code, prosecution for the following  
1588 offenses may be commenced at any time:

1589 (a) an offense classified as a capital felony under Section 76-3-103;

1590 (b) aggravated murder under Section 76-5-202;

1591 (c) murder under Section 76-5-203;

1592 (d) manslaughter under Section 76-5-205;

1593 (e) child abuse homicide under Section 76-5-208;

1594 (f) aggravated kidnapping under Section 76-5-302;

1595 (g) child kidnapping under Section 76-5-301.1;

1596 (h) rape under Section 76-5-402;

1597 (i) rape of a child under Section 76-5-402.1;

1598 (j) object rape under Section 76-5-402.2;

1599 (k) object rape of a child under Section 76-5-402.3;

1600 (l) forcible sodomy under Section 76-5-403;

1601 (m) sodomy on a child under Section 76-5-403.1;

1602 (n) sexual abuse of a child under Section 76-5-404.1;

1603 (o) aggravated sexual abuse of a child under Section 76-5-404.3;

1604 (p) aggravated sexual assault under Section 76-5-405;

1605 (q) any predicate offense to a murder or aggravating offense to an aggravated murder;

1606 (r) aggravated human trafficking [~~or aggravated human smuggling in violation of~~]  
1607 under Section 76-5-310;

1608 (s) aggravated human smuggling under Section 76-5-310.1;

1609 [~~(s)~~] (t) aggravated exploitation of prostitution involving a child[;] under Section

1610 76-10-1306; or

1611 ~~[(t)]~~ (u) human trafficking of a child[;] under Section 76-5-308.5.

1612 Section 15. Section **76-3-203.1** is amended to read:

1613 **76-3-203.1. Offenses committed in concert with three or more persons or in**  
1614 **relation to a criminal street gang -- Notice -- Enhanced penalties.**

1615 (1) As used in this section:

1616 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

1617 (b) "In concert with three or more persons" means:

1618 (i) the defendant was aided or encouraged by at least three other persons in committing  
1619 the offense and was aware of this aid or encouragement; and

1620 (ii) each of the other persons:

1621 (A) was physically present; and

1622 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).

1623 (c) "In concert with three or more persons" means, regarding intent:

1624 (i) other persons participating as parties need not have the intent to engage in the same  
1625 offense or degree of offense as the defendant; and

1626 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the  
1627 minor were an adult.

1628 (2) A person who commits any offense in accordance with this section is subject to an  
1629 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a  
1630 reasonable doubt that the person acted:

1631 (a) in concert with three or more persons;

1632 (b) for the benefit of, at the direction of, or in association with any criminal street gang  
1633 as defined in Section 76-9-802; or

1634 (c) to gain recognition, acceptance, membership, or increased status with a criminal  
1635 street gang as defined in Section 76-9-802.

1636 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to  
1637 be subscribed upon the information or indictment notice that the defendant is subject to the  
1638 enhanced penalties provided under this section.

1639 (4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

1640 (i) for a class B misdemeanor, as a class A misdemeanor; and

1641 (ii) for a class A misdemeanor, as a third degree felony.

1642 (b) The following offenses are subject to Subsection (4)(a):  
 1643 (i) criminal mischief as described in Section 76-6-106;  
 1644 (ii) property damage or destruction as described in Section 76-6-106.1; and  
 1645 (iii) defacement by graffiti as described in Section 76-6-107.  
 1646 (5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:  
 1647 (i) for a class B misdemeanor, as a class A misdemeanor;  
 1648 (ii) for a class A misdemeanor, as a third degree felony; and  
 1649 (iii) for a third degree felony, as a second degree felony.  
 1650 (b) The following offenses are subject to Subsection (5)(a):  
 1651 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);  
 1652 (ii) any offense of obstructing government operations under Chapter 8, Part 3,  
 1653 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307,  
 1654 76-8-308, and 76-8-312;  
 1655 (iii) tampering with a witness [~~or other violation of~~] under Section 76-8-508;  
 1656 (iv) retaliation against a witness, victim, or informant, or other violation of Section  
 1657 76-8-508.3;  
 1658 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
 1659 [~~(v)~~] (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section  
 1660 76-8-509;  
 1661 [~~(vi)~~] (vii) any weapons offense under Chapter 10, Part 5, Weapons; and  
 1662 [~~(vii)~~] (viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.  
 1663 (6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:  
 1664 (i) for a class B misdemeanor, as a class A misdemeanor;  
 1665 (ii) for a class A misdemeanor, as a third degree felony;  
 1666 (iii) for a third degree felony, as a second degree felony; and  
 1667 (iv) for a second degree felony, as a first degree felony.  
 1668 (b) The following offenses are subject to Subsection (6)(a):  
 1669 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;  
 1670 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;  
 1671 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking,  
 1672 and Smuggling;

- (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- (viii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 16. Section **76-3-203.3** is amended to read:

**76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2) (a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

1704 (d) any misdemeanor theft offense under Section 76-6-412;

1705 (e) any offense of obstructing government operations under Sections 76-8-301,

1706 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

1707 (f) any offense of interfering or intending to interfere with activities of colleges and

1708 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

1709 (g) any misdemeanor offense against public order and decency as defined in Title 76,

1710 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

1711 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic

1712 Communication and Telephone Abuse;

1713 (i) any cruelty to animals offense under Section 76-9-301;

1714 (j) any weapons offense under Section 76-10-506; or

1715 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

1716 (5) This section does not affect or limit any individual's constitutional right to the

1717 lawful expression of free speech or other recognized rights secured by the Constitution or laws

1718 of the state or by the Constitution or laws of the United States.

1719 Section 17. Section **76-3-203.5** is amended to read:

1720 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**

1721 (1) As used in this section:

1722 (a) "Felony" means any violation of a criminal statute of the state, any other state, the

1723 United States, or any district, possession, or territory of the United States for which the

1724 maximum punishment the offender may be subjected to exceeds one year in prison.

1725 (b) "Habitual violent offender" means a person convicted within the state of any violent

1726 felony and who on at least two previous occasions has been convicted of a violent felony and

1727 committed to either prison in Utah or an equivalent correctional institution of another state or

1728 of the United States either at initial sentencing or after revocation of probation.

1729 (c) "Violent felony" means:

1730 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit

1731 any of the following offenses punishable as a felony:

1732 (A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief,

1733 Chapter 6, Part 1, Property Destruction;

1734 (B) assault by prisoner, Section 76-5-102.5;

- 1735 (C) disarming a police officer, Section 76-5-102.8;
- 1736 (D) aggravated assault, Section 76-5-103;
- 1737 (E) aggravated assault by prisoner, Section 76-5-103.5;
- 1738 (F) mayhem, Section 76-5-105;
- 1739 (G) stalking, Subsection 76-5-106.5(2);
- 1740 (H) threat of terrorism, Section 76-5-107.3;
- 1741 (I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);
- 1742 (J) commission of domestic violence in the presence of a child, Section 76-5-114;
- 1743 (K) abuse or neglect of a child with a disability, Section 76-5-110;
- 1744 (L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2,
- 1745 76-5-111.3, or 76-5-111.4;
- 1746 (M) endangerment of a child or vulnerable adult, Section 76-5-112.5;
- 1747 (N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;
- 1748 (O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3,
- 1749 Kidnapping, Trafficking, and Smuggling;
- 1750 (P) rape, Section 76-5-402;
- 1751 (Q) rape of a child, Section 76-5-402.1;
- 1752 (R) object rape, Section 76-5-402.2;
- 1753 (S) object rape of a child, Section 76-5-402.3;
- 1754 (T) forcible sodomy, Section 76-5-403;
- 1755 (U) sodomy on a child, Section 76-5-403.1;
- 1756 (V) forcible sexual abuse, Section 76-5-404;
- 1757 (W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
- 1758 Section 76-5-404.3;
- 1759 (X) aggravated sexual assault, Section 76-5-405;
- 1760 (Y) sexual exploitation of a minor, Section 76-5b-201;
- 1761 (Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 1762 (AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 1763 (BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary
- 1764 and Criminal Trespass;
- 1765 (CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;

1766 (DD) theft by extortion under Section 76-6-406 under the circumstances described in  
1767 Subsection 76-6-406(1)(a)(i) or (ii);  
1768 (EE) tampering with a witness under [~~Subsection 76-8-508(1)~~] Section 76-8-508;  
1769 (FF) retaliation against a witness, victim, or informant under Section 76-8-508.3;  
1770 (GG) tampering [~~with~~] or retaliating against a juror under Subsection 76-8-508.5(2)(c);  
1771 (HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any  
1772 threat or by use of force theft by extortion has been committed under Section 76-6-406 under  
1773 the circumstances described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);  
1774 (II) possession, use, or removal of explosive, chemical, or incendiary devices under  
1775 Subsections 76-10-306(3) through (6);  
1776 (JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section  
1777 76-10-307;  
1778 (KK) purchase or possession of a dangerous weapon or handgun by a restricted person  
1779 under Section 76-10-503;  
1780 (LL) unlawful discharge of a firearm under Section 76-10-508;  
1781 (MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);  
1782 (NN) bus hijacking under Section 76-10-1504; and  
1783 (OO) discharging firearms and hurling missiles under Section 76-10-1505; or  
1784 (ii) any felony violation of a criminal statute of any other state, the United States, or  
1785 any district, possession, or territory of the United States which would constitute a violent  
1786 felony as defined in this Subsection (1) if committed in this state.  
1787 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the  
1788 trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender  
1789 under this section, the penalty for a:  
1790 (a) third degree felony is as if the conviction were for a first degree felony;  
1791 (b) second degree felony is as if the conviction were for a first degree felony; or  
1792 (c) first degree felony remains the penalty for a first degree penalty except:  
1793 (i) the convicted person is not eligible for probation; and  
1794 (ii) the Board of Pardons and Parole shall consider that the convicted person is a  
1795 habitual violent offender as an aggravating factor in determining the length of incarceration.  
1796 (3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall

provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by

counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 18. Section **76-3-406** is amended to read:

**76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.**

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

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

1859 (b) Section 76-5-203, murder;  
1860 (c) Section 76-5-301.1, child kidnaping;  
1861 (d) Section 76-5-302, aggravated kidnaping;  
1862 (e) Section 76-5-402, rape, if the individual is sentenced under Subsection  
1863 76-5-402(3)(b), (3)(c), or (4);  
1864 (f) Section 76-5-402.1, rape of a child;  
1865 (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection  
1866 76-5-402.2(3)(b), (3)(c), or (4);  
1867 (h) Section 76-5-402.3, object rape of a child;  
1868 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection  
1869 76-5-403(3)(b), (3)(c), or (4);  
1870 (j) Section 76-5-403.1, sodomy on a child;  
1871 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under  
1872 Subsection 76-5-404(3)(b)(i) or (ii);  
1873 (l) Section 76-5-404.1, sexual abuse of a child;  
1874 ~~(f)~~ (m) Section 76-5-404.3, aggravated sexual abuse of a child;  
1875 ~~(m)~~ (n) Section 76-5-405, aggravated sexual assault; or  
1876 ~~(n)~~ (o) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).  
1877 (2) Except for an offense before the district court in accordance with Section 80-6-502  
1878 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the  
1879 defendant:  
1880 (a) was under 18 years old at the time of the offense; and  
1881 (b) could have been adjudicated in the juvenile court but for the delayed reporting or  
1882 delayed filing of the information.  
1883 Section 19. Section **76-5-203** is amended to read:  
1884 **76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation --**  
1885 **Separate offenses.**  
1886 (1) (a) As used in this section, "predicate offense" means:  
1887 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;  
1888 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused  
1889 individual is younger than 18 years old;

- (iii) kidnapping under Section 76-5-301;
- (iv) child kidnapping under Section 76-5-301.1;
- (v) aggravated kidnapping under Section 76-5-302;
- (vi) rape under Section 76-5-402;
- (vii) rape of a child under Section 76-5-402.1;
- (viii) object rape under Section 76-5-402.2;
- (ix) object rape of a child under Section 76-5-402.3;
- (x) forcible sodomy under Section 76-5-403;
- (xi) sodomy upon a child under Section 76-5-403.1;
- (xii) forcible sexual abuse under Section 76-5-404;
- (xiii) sexual abuse of a child under Section 76-5-404.1;
- (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
- (xv) aggravated sexual assault under Section 76-5-405;
- (xvi) arson under Section 76-6-102;
- (xvii) aggravated arson under Section 76-6-103;
- (xviii) burglary under Section 76-6-202;
- (xix) aggravated burglary under Section 76-6-203;
- (xx) robbery under Section 76-6-301;
- (xxi) aggravated robbery under Section 76-6-302;
- (xxii) escape [~~or aggravated escape~~] under Section 76-8-309;
- (xxiii) aggravated escape under Section 76-8-309.1; or
- ~~[(xxiii)]~~ (xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits murder if:
  - (a) the actor intentionally or knowingly causes the death of another individual;
  - (b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;
  - (c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

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

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another

individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 20. Section **76-6-513** is amended to read:

**76-6-513. Unlawful dealing of property by a fiduciary.**

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

(i) "Fiduciary" means the same as that term is defined in Section 22-1-1.

(ii) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

(iii) "Governmental entity" is as defined in Section 63G-7-102.

(iv) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

(v) "Property" means the same as that term is defined in Section 76-6-401.

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

(2) An actor commits unlawfully dealing with property by a fiduciary if the actor:

(a) deals with property:

(i) that has been entrusted to the actor as a fiduciary, or property of a governmental

1983 entity, public money, or of a financial institution; and  
1984 (ii) in a manner which:  
1985 (A) the actor knows is a violation of the actor's duty; and  
1986 (B) involves substantial risk of loss or detriment to the property owner or to a person  
1987 for whose benefit the property was entrusted; or  
1988 (b) acting as a fiduciary pledges:  
1989 (i) as collateral for a personal loan, or as collateral for the benefit of some party, other  
1990 than the owner or the person for whose benefit the property was entrusted, the property that has  
1991 been entrusted to the fiduciary; and  
1992 (ii) without permission of the owner of the property or some other authorized person.  
1993 (3) (a) A violation of Subsection (2)(a) is:  
1994 (i) a second degree felony if the:  
1995 (A) value of the property is or exceeds \$5,000; or  
1996 (B) property is stolen from the person of another;  
1997 (ii) a third degree felony if:  
1998 (A) the value of the property is or exceeds \$1,500 but is less than \$5,000;  
1999 (B) the value of the property is or exceeds \$500 and the actor has been twice before  
2000 convicted of any of the following offenses, if each prior offense was committed within 10 years  
2001 before the date of the current conviction or the date of the offense upon which the current  
2002 conviction is based and at least one of those convictions is for a class A misdemeanor:  
2003 (I) any theft, any robbery, or any burglary with intent to commit theft;  
2004 (II) any offense under Part 5, Fraud; or  
2005 (III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II); or  
2006 [~~(C) the value of property is or exceeds \$500 but is less than \$1,500; or~~]  
2007 [~~(D)~~] (C) the actor has been previously convicted of a felony violation of any of the  
2008 offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was  
2009 committed within 10 years before the date of the current conviction or the date of the offense  
2010 upon which the current conviction is based;  
2011 (iii) a class A misdemeanor if:  
2012 (A) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or  
2013 (B) the actor has been twice before convicted of any of the offenses listed in

2014 Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed  
 2015 within 10 years before the date of the current conviction or the date of the offense upon which  
 2016 the current conviction is based; or

2017 (iv) a class B misdemeanor if the value of the property stolen is less than \$500 and the  
 2018 theft is not an offense under Subsection (3)(a)(iii)(B).

2019 (b) A violation of Subsection (2)(b) is:

2020 (i) a second degree felony if the value of the property wrongfully pledged is or exceeds  
 2021 \$5,000;

2022 (ii) a third degree felony if the value of the property wrongfully pledged is or exceeds  
 2023 \$1,500 but is less than \$5,000;

2024 (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less  
 2025 than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent  
 2026 to commit theft, or unlawful dealing with property by a fiduciary; or

2027 (iv) a class B misdemeanor if the value of the property is less than \$500.

2028 (4) This section may not be construed to impose criminal or civil liability on any law  
 2029 enforcement officer acting within the scope of a criminal investigation.

2030 (5) The forfeiture of property under this section, including any seizure and disposition  
 2031 of the property and any related judicial or administrative proceeding, shall be conducted in  
 2032 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter  
 2033 11c, Retention of Evidence.

2034 Section 21. Section **76-8-101** is amended to read:

2035 **76-8-101. Definitions.**

2036 As used in this chapter:

2037 ~~[(1) "Candidate for electoral office" means a person who files as a candidate for office~~  
 2038 ~~under the laws of the state.]~~

2039 ~~[(2)]~~ (1) "Harm" means a disadvantage or a physical, emotional, or economic injury to  
 2040 a person or a person's property, reputation, or business interests.

2041 (2) "Party official" means [a person] an individual holding any post in a political party  
 2042 whether by election, appointment, or otherwise.

2043 (3) "Peace officer" means an employee of a police or law enforcement agency that is  
 2044 part of or administered by the state or [any of its political subdivisions] a political subdivision

of the state, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or ~~[any of its political subdivisions]~~ a political subdivision of the state.

(4) (a) "Pecuniary benefit" means ~~[any]~~ an advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain.

(b) "Pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

(5) (a) "Public property" means real or personal property that is owned, held, or managed by a public entity.

(b) "Public property" includes real or personal property that is owned, held, or managed by a public entity after the real or personal property is transferred by the public entity to an independent contractor of the public entity.

(c) "Public property" remains public property while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

Section 22. Section **76-8-102** is amended to read:

**76-8-102. Campaign contributions not prohibited.**

(1) Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign.

(2) No person shall be convicted of an offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

Section 23. Section **76-8-103** is amended to read:

**76-8-103. Bribery or offering a bribe.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[A person is guilty of]~~ An actor commits bribery or offering a bribe if ~~[that person]~~ the actor promises, offers, or agrees to give or gives, directly or indirectly, any benefit to another with the purpose or intent to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion of a public servant, party official, or voter.

(3) A violation of Subsection (2) is:

2076 (a) a second degree felony if the value of the benefit is \$1,000 or more; or  
 2077 (b) a third degree felony if the value of the benefit is less than \$1,000.  
 2078 ~~[(2)]~~ (4) It is not a defense to a prosecution under this statute that:  
 2079 (a) the person sought to be influenced was not qualified to act in the desired way,  
 2080 whether because the person had not assumed office, lacked jurisdiction, or for any other reason;  
 2081 (b) the person sought to be influenced did not act in the desired way; or  
 2082 (c) the benefit is not conferred, solicited, or accepted until after:  
 2083 (i) the action, decision, opinion, recommendation, judgment, vote, nomination, or  
 2084 exercise of discretion, has occurred; or  
 2085 (ii) the public servant ceases to be a public servant.  
 2086 ~~[(3) Bribery or offering a bribe is:]~~  
 2087 ~~[(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or~~  
 2088 ~~conferred is less than \$1,000, and]~~  
 2089 ~~[(b) a second degree felony when the value of the benefit asked for, solicited, accepted,~~  
 2090 ~~or conferred is \$1,000 or more.]~~  
 2091 Section 24. Section **76-8-104** is amended to read:  
 2092 **76-8-104. Threat to influence official or political action.**  
 2093 (1) (a) As used in this section, "public servant" does not include a juror.  
 2094 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
 2095 (2) [A person is guilty of a class A misdemeanor if he threatens any harm to a public  
 2096 servant, party official, or voter] An actor commits threat to influence official or political action  
 2097 if the actor, with a purpose of influencing [his] an action, decision, opinion, recommendation,  
 2098 nomination, vote, or other exercise of discretion of a public servant, party official, or voter,  
 2099 threatens harm to:  
 2100 (a) the public servant, party official, or voter; or  
 2101 (b) a person or entity in whose welfare the public servant, party official, or voter is  
 2102 interested.  
 2103 (3) A violation of Subsection (2) is a class A misdemeanor.  
 2104 ~~[(2) As used in this section:]~~  
 2105 ~~[(a) "Harm" means any disadvantage or injury, pecuniary or otherwise, including~~  
 2106 ~~disadvantage or injury to any other person or entity in whose welfare the public servant, party~~

2107 ~~official, or voter is interested.]~~

2108 ~~[(b) "Public servant" does not include jurors.]~~

2109 Section 25. Section **76-8-105** is amended to read:

2110 **76-8-105. Receiving or soliciting bribe or bribery by public servant.**

2111 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2112 (2) ~~[A person is guilty of]~~ An actor commits receiving or soliciting a bribe if ~~[that~~  
2113 ~~person]~~ the actor asks for, solicits, accepts, or receives, directly or indirectly, any benefit with  
2114 the understanding or agreement that the purpose or intent is to influence an action, decision,  
2115 opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public  
2116 servant, party official, or voter.

2117 (3) A violation of Subsection (2) is:

2118 (a) a second degree felony if the value of the benefit asked for, solicited, accepted, or  
2119 conferred is more than \$1,000; or

2120 (b) a third degree felony if the value of the benefit asked for, solicited, accepted, or  
2121 conferred is \$1,000 or less.

2122 ~~[(2)]~~ (4) It is not a defense to a prosecution under this statute that:

2123 (a) the person sought to be influenced was not qualified to act in the desired way,  
2124 whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

2125 (b) the person sought to be influenced did not act in the desired way; or

2126 (c) the benefit is not asked for, conferred, solicited, or accepted until after:

2127 (i) the action, decision, opinion, recommendation, judgment, vote, nomination, or  
2128 exercise of discretion, has occurred; or

2129 (ii) the public servant ceases to be a public servant.

2130 ~~[(3) Receiving or soliciting a bribe is:]~~

2131 ~~[(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or~~  
2132 ~~conferred is \$1,000 or less, and]~~

2133 ~~[(b) a second degree felony when the value of the benefit asked for, solicited, accepted,~~  
2134 ~~or conferred exceeds \$1,000.]~~

2135 Section 26. Section **76-8-106** is amended to read:

2136 **76-8-106. Receiving bribe for endorsement of person as a public servant.**

2137 ~~[A person is guilty of a class B misdemeanor if:]~~

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[He]~~ An actor commits receiving a bribe for endorsement of a person as a public servant if the actor solicits, accepts, agrees to accept for [himself] the actor's self, another person, or a political party, money or any other pecuniary benefit as compensation for [his] the actor's endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant[; or].

~~[(2)] (3) [He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph (1).]~~ A violation of Subsection (2) is a class B misdemeanor.

Section 27. Section **76-8-106.1** is enacted to read:

**76-8-106.1. Bribery for endorsement of person as public servant.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits bribery for endorsement of a person as a public servant if the actor knowingly gives, offers, or promises money or any other pecuniary benefit to a person or a political party as compensation for the person's or political party's endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 28. Section **76-8-107** is amended to read:

**76-8-107. Alteration of proposed legislative bill or resolution.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[Every person who]~~ An actor commits alteration of proposed legislative bill or resolution if the actor fraudulently alters the draft of [any] a bill or resolution [which] that has been presented to either of the houses composing the Legislature to be passed or adopted, with intent to procure [its] the proposed legislative bill or resolution being passed or adopted by either house, or certified by the presiding officer of either house, in language different from that intended by [such] either house[; is guilty of a felony of the third degree].

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

Section 29. Section **76-8-108** is amended to read:

**76-8-108. Alteration of enrolled legislative bill or resolution.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[Every person who]~~ An actor commits alteration of enrolled legislative bill or

2169 resolution if the actor fraudulently alters the enrolled copy of [~~any~~] a bill or resolution [~~which~~]  
 2170 that has been passed or adopted by the Legislature with intent to procure [~~it~~] the enrolled bill or  
 2171 resolution to be approved by the governor or certified by the Division of Archives, or printed or  
 2172 published by the printer of statutes, in language different from that in which [~~it~~] the enrolled  
 2173 bill or resolution was passed or adopted by the Legislature[~~, is guilty of a felony of the third~~  
 2174 ~~degree~~].

2175 (3) A violation of Subsection (2) is a third degree felony.

2176 Section 30. Section **76-8-110** is amended to read:

2177 **76-8-110. Prohibited action by peace officer for collection agency or creditor.**

2178 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2179 (2) [~~A peace officer may not have any~~] An actor commits prohibited action by peace  
 2180 officer for collection agency or creditor if the actor:

2181 (a) is a peace officer; and

2182 (b) (i) has an interest in [~~any~~] a collection agency; or

2183 (ii) [~~act~~] acts as a compensated collection agent for [~~any~~] a creditor or collection  
 2184 agency.

2185 [~~(2)~~] (3) [~~A person that violates this section is guilty of~~] A violation of Subsection (2)  
 2186 is a class C misdemeanor.

2187 Section 31. Section **76-8-201** is amended to read:

2188 **76-8-201. Official misconduct based on an unauthorized act or failure of duty.**

2189 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2190 (2) An actor commits official misconduct based on an unauthorized act or failure of  
 2191 duty if the actor:

2192 (a) is a public servant; and

2193 (b) [~~A public servant is guilty of a class B misdemeanor if,~~] with an intent to benefit  
 2194 [~~himself~~] the actor or another or to harm another, [~~he~~] the actor knowingly;

2195 (i) commits an unauthorized act [~~which~~] that purports to be an act of [~~his~~] the actor's  
 2196 office[~~;~~]; or

2197 (ii) knowingly refrains from performing a duty imposed on [~~him~~] the actor by law or  
 2198 clearly inherent in the nature of [~~his~~] the actor's office.

2199 (3) A violation of Subsection (2) is a class B misdemeanor.

2200 Section 32. Section **76-8-202** is amended to read:

2201 **76-8-202. Official misconduct concerning inside information.**

2202 ~~[A public servant is guilty of a class A misdemeanor if, knowing that official action is~~  
 2203 ~~contemplated or in reliance on information which he has acquired by virtue of his office or~~  
 2204 ~~from another public servant, which information has not been made public, he:]~~

2205 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2206 (2) An actor commits official misconduct concerning inside information if:

2207 (a) the actor is a public servant; and

2208 (b) knowing that official action is contemplated, or in reliance on information that the  
 2209 actor has acquired by virtue of the actor's office or from another public servant, which  
 2210 information has not been made public, the actor:

2211 (i) acquires or divests [himself] the actor's self of a pecuniary interest in any property,  
 2212 transaction, or enterprise ~~[which]~~ that may be affected by such action or information;

2213 ~~[(2)]~~ (ii) speculates or wagers on the basis of such action or information; or

2214 ~~[(3)]~~ (iii) knowingly aids another person to do [any of the foregoing] an action  
 2215 described in Subsection (2)(b)(i) or (2)(b)(ii).

2216 (3) A violation of Subsection (2) is a class A misdemeanor.

2217 Section 33. Section **76-8-203** is amended to read:

2218 **76-8-203. Unofficial misconduct.**

2219 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2220 (2) ~~[A person is guilty of]~~ An actor commits unofficial misconduct if the ~~[person]~~ actor  
 2221 exercises or attempts to exercise any of the functions of a public office when the ~~[person]~~ actor:

2222 (a) has not taken and filed the required oath of office;

2223 (b) has failed to execute and file a required bond;

2224 (c) has not been elected or appointed to office;

2225 (d) exercises any of the functions of [his] the actor's office after [his] the actor's term  
 2226 has expired and the successor has been elected or appointed and has qualified, or after [his] the  
 2227 actor's office has been legally removed; or

2228 (e) knowingly:

2229 (i) withholds or retains from [his] the actor's successor in office, or other person

2230 entitled to possession, the official seal or [any records, papers, documents, or other writings] a

2231 record, paper, document, or other writing appertaining or belonging to [his] the actor's office  
 2232 ~~[or mutilates or destroys or takes away the same.]; or~~

2233 (ii) mutilates, destroys, or takes away the official seal or a record, paper, document, or  
 2234 other writing appertaining or belonging to the actor's office.

2235 ~~[(2)] (3) [Unofficial misconduct]~~ A violation of Subsection (2) is a class B  
 2236 misdemeanor.

2237 Section 34. Section **76-8-301** is amended to read:

2238 **76-8-301. Interference with a public servant.**

2239 (1) (a) As used in this section, "public servant" does not include a juror.

2240 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2241 (2) ~~[An individual is guilty of]~~ An actor commits interference with a public servant if  
 2242 the ~~[individual]~~ actor:

2243 (a) uses force, violence, intimidation, or engages in any other unlawful act with a  
 2244 purpose to interfere with a public servant performing or purporting to perform an official  
 2245 function; or

2246 (b) obstructs, hinders, conceals, or prevents the lawful service of any civil or criminal  
 2247 legal process~~[- civil or criminal,]~~ by ~~[any]~~ a sheriff, constable, deputy sheriff, deputy constable,  
 2248 peace officer, private investigator, or any other person authorized to serve legal process~~[- or]~~.

2249 ~~[(c) on property that is owned, operated, or controlled by the state or a political~~  
 2250 ~~subdivision of the state, willfully denies to a public servant lawful:]~~

2251 ~~[(i) freedom of movement;]~~

2252 ~~[(ii) use of the property or facilities; or]~~

2253 ~~[(iii) entry into or exit from the facilities.]~~

2254 ~~[(2)] (3) [Interference with a public servant:]~~ A violation of Subsection (2) is a class B  
 2255 misdemeanor.

2256 ~~[(a) under Subsection (1)(a) or (b) is a class B misdemeanor; and]~~

2257 ~~[(b) under Subsection (1)(c) is a class C misdemeanor.]~~

2258 ~~[(3) For purposes of this section, "public servant" does not include jurors.]~~

2259 Section 35. Section **76-8-301.2** is enacted to read:

2260 **76-8-301.2. Denial of public servant's use of public property.**

2261 (1) (a) As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denial of public servant's use of public property if the actor, on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

(a) freedom of movement;

(b) use of the property or facility; or

(c) entry into or exit from the facility.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 36. Section **76-8-301.5** is amended to read:

**76-8-301.5. Failure to disclose identity.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[A person is guilty of]~~ An actor commits failure to disclose identity if, during the period of time that the ~~[person]~~ actor is lawfully subjected to a stop as described in Section 77-7-15:

(a) a peace officer demands that the ~~[person]~~ actor disclose the ~~[person's]~~ actor's name or date of birth;

(b) the demand described in Subsection ~~[(1)(a)]~~ (2)(a) is reasonably related to the circumstances justifying the stop;

(c) the disclosure of the ~~[person's]~~ actor's name or date of birth by the ~~[person]~~ actor does not present a reasonable danger of self-incrimination in the commission of a crime; and

(d) the ~~[person]~~ actor fails to disclose the ~~[person's]~~ actor's name or date of birth.

~~[(2)] (3) [Failure to disclose identity]~~ A violation of Subsection (2) is a class B misdemeanor.

Section 37. Section **76-8-302** is amended to read:

**76-8-302. Picketing or parading in or near court.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[A person is guilty of a class B misdemeanor if he]~~ An actor commits picketing or parading in or near a court if the actor pickets or parades in or near a building [which] that houses a court of this state with intent to:

(a) obstruct access to that court; or [to]

(b) affect the outcome of a case pending before that court.

2293 (3) A violation of Subsection (2) is a class B misdemeanor.

2294 Section 38. Section **76-8-303** is amended to read:

2295 **76-8-303. Prevention of Legislature or public servant from meeting or**  
 2296 **organizing.**

2297 ~~[A person is guilty of a felony of the third degree if he intentionally and by force or~~  
 2298 ~~fraud:]~~

2299 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2300 (2) An actor commits prevention of Legislature or public servant from meeting or  
 2301 organizing if the actor intentionally and by force or fraud:

2302 (a) ~~[Prevents]~~ prevents the Legislature, ~~[or]~~ either of the houses composing ~~[it]~~ the  
 2303 Legislature, or any of the members ~~[thereof]~~ of the Legislature, from meeting or organizing; or

2304 ~~[(2)] (b) [Prevents]~~ prevents any other public servant from meeting or organizing to  
 2305 perform a lawful governmental function.

2306 (3) A violation of Subsection (2) is a third degree felony.

2307 Section 39. Section **76-8-305** is amended to read:

2308 **76-8-305. Interference with a peace officer.**

2309 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2310 ~~(2) [A person is guilty of a class B misdemeanor if the person]~~ An actor commits  
 2311 interference with a peace officer if the actor:

2312 (a) knows, or by the exercise of reasonable care should have known, that a peace  
 2313 officer is seeking to effect a lawful arrest or detention of ~~[that person]~~ the actor or another  
 2314 ~~[person]~~ individual; and

2315 (b) interferes with the arrest or detention by:

2316 ~~[(a)] (i)~~ use of force or [any] a weapon;

2317 ~~[(b)] (ii)~~ refusing to perform [any] an act required by lawful order:

2318 ~~[(c)] (A)~~ necessary to effect the arrest or detention; and

2319 ~~[(d)] (B)~~ made by a peace officer involved in the arrest or detention; or

2320 ~~[(e)] (iii)~~ refusing to refrain from performing [any] an act that would impede the arrest  
 2321 or detention.

2322 ~~[(2)] (3)~~ A violation of Subsection (2) is a class B misdemeanor.

2323 (4) Recording the actions of a [law enforcement] peace officer with a camera, mobile

2324 phone, or other photographic device, while the peace officer is performing official duties in  
 2325 plain view, does not by itself constitute:

- 2326 (a) interference with the peace officer;
- 2327 (b) willful resistance;
- 2328 (c) disorderly conduct; or
- 2329 (d) obstruction of justice.

2330 Section 40. Section **76-8-305.5** is amended to read:

2331 **76-8-305.5. Failure to stop at the command of a peace officer.**

2332 ~~[A person is guilty of a class A misdemeanor who flees from or otherwise attempts to~~  
 2333 ~~elude a peace officer.]~~

2334 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2335 (2) An actor commits failure to stop at the command of a peace officer if, after the  
 2336 peace officer has issued a verbal or visual command to stop[;], the actor flees from or  
 2337 otherwise attempts to elude a peace officer:

- 2338 ~~[(2)]~~ (a) for the purpose of avoiding arrest; and
- 2339 ~~[(3)]~~ (b) by any means other than a violation of Section 41-6a-210 regarding failure to  
 2340 stop a vehicle at the command of a law enforcement officer.

2341 (3) A violation of Subsection (2) is a class A misdemeanor.

2342 Section 41. Section **76-8-306** is amended to read:

2343 **76-8-306. Obstruction of justice in a criminal investigation or proceeding.**

2344 (1) (a) As used in this section:

2345 (i) (A) "Conduct that constitutes a criminal offense" means conduct that would be  
 2346 punishable as a crime and is separate from a violation of this section.

2347 (B) "Conduct that constitutes a criminal offense" includes:

2348 (I) any violation of a criminal statute or ordinance of this state or a political subdivision  
 2349 of this state, any other state, or any district, possession, or territory of the United States; and

2350 (II) conduct committed by a juvenile that would be a crime if committed by an adult.

2351 (ii) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

2352 (iii) "Official custody" means the same as that term is defined in Section 76-8-309.

2353 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2354 (2) ~~[An]~~ Except as provided in Subsection (5), an actor commits obstruction of justice

2355 in a criminal investigation or proceeding if the actor, with intent to hinder, delay, or prevent the  
2356 investigation, apprehension, prosecution, conviction, or punishment of any person regarding  
2357 conduct that constitutes a criminal offense:

2358 (a) provides any person with a weapon;

2359 (b) prevents by force, intimidation, or deception, ~~[any]~~ a person from performing ~~[any]~~  
2360 an act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of  
2361 any person;

2362 (c) alters, destroys, conceals, or removes ~~[any]~~ an item or other thing;

2363 (d) makes, presents, or uses ~~[any]~~ an item or thing known by the actor to be false;

2364 (e) harbors or conceals a person;

2365 (f) provides a person with transportation, disguise, or other means of avoiding  
2366 discovery or apprehension;

2367 (g) warns ~~[any]~~ a person of impending discovery or apprehension;

2368 (h) warns ~~[any]~~ a person of an order authorizing the interception of wire  
2369 communications or of a pending application for an order authorizing the interception of wire  
2370 communications;

2371 (i) conceals information that is not privileged and that concerns the offense, after a  
2372 judge or magistrate has ordered the actor to provide the information; or

2373 (j) provides false information regarding a suspect, a witness, the conduct constituting  
2374 an offense, or any other material aspect of the investigation.

2375 ~~[(2)(a) As used in this section, "conduct that constitutes a criminal offense" means~~  
2376 ~~conduct that would be punishable as a crime and is separate from a violation of this section,~~  
2377 ~~and includes:]~~

2378 ~~[(i) any violation of a criminal statute or ordinance of this state, its political~~  
2379 ~~subdivisions, any other state, or any district, possession, or territory of the United States; and]~~

2380 ~~[(ii) conduct committed by a juvenile which would be a crime if committed by an~~  
2381 ~~adult.]~~

2382 ~~[(b) A violation of a criminal statute that is committed in another state, or any district,~~  
2383 ~~possession, or territory of the United States, is a:]~~

2384 ~~[(i) capital felony if the penalty provided includes death or life imprisonment without~~  
2385 ~~parole;]~~

2386 ~~[(ii) a first degree felony if the penalty provided includes life imprisonment with parole~~  
 2387 ~~or a maximum term of imprisonment exceeding 15 years;]~~

2388 ~~[(iii) a second degree felony if the penalty provided exceeds five years;]~~

2389 ~~[(iv) a third degree felony if the penalty provided includes imprisonment for any period~~  
 2390 ~~exceeding one year; and]~~

2391 ~~[(v) a misdemeanor if the penalty provided includes imprisonment for any period of~~  
 2392 ~~one year or less;]~~

2393 (3) ~~[Obstruction of justice]~~ A violation of Subsection (2) is:

2394 (a) a second degree felony if the conduct ~~[which]~~ that constitutes an offense would be a  
 2395 capital felony or first degree felony;

2396 (b) a third degree felony if:

2397 (i) the conduct that constitutes an offense would be a second or third degree felony and  
 2398 the actor violates Subsection ~~[(1)(b)]~~ (2)(b), (c), (d), (e), or (f);

2399 (ii) the conduct that constitutes an offense would be any offense other than a capital or  
 2400 first degree felony and the actor violates Subsection ~~[(1)(a)]~~ (2)(a);

2401 (iii) the obstruction of justice is presented or committed before a court of law; or

2402 (iv) a violation of Subsection ~~[(1)(h)]~~ (2)(h); or

2403 (c) a class A misdemeanor for any violation of this section that is not enumerated under  
 2404 Subsection (3)(a) or (b).

2405 (4) It is not a defense that the actor was unaware of the level of penalty for the conduct  
 2406 constituting an offense.

2407 ~~[(5) Subsection (1)(e) does not apply to harboring a juvenile offender, as defined in~~  
 2408 ~~Section 80-1-102, which is governed by Section 76-8-311.5;]~~

2409 ~~[(6)]~~ (5) (a) Subsection (2) does not apply to harboring or concealing an offender who  
 2410 has escaped from official custody, which is governed by Section 76-8-309.2.

2411 (b) Subsection ~~[(1)(b)]~~ (2)(b) does not apply to:

2412 ~~[(a) tampering with a juror, which is governed by Section 76-8-508.5;]~~

2413 ~~[(b)]~~ (i) [influencing, impeding, or retaliating against a judge or member of the Board  
 2414 of Pardons and Parole, which is governed by] threat with intent to impede, intimidate,

2415 interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting

2416 against a family member of a judge or a member of the Board of Pardons and Parole under

2417 Section 76-8-316;

2418 (ii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a  
2419 member of the Board of Pardons and Parole or acting against a family member of a judge or a  
2420 member of the Board of Pardons and Parole under Section 76-8-316.2;

2421 (iii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a  
2422 judge or a member of the Board of Pardons and Parole or acting against a family member of a  
2423 judge or a member of the Board of Pardons and Parole under Section 76-8-316.4;

2424 (iv) attempted murder with intent to impede, intimidate, interfere, or retaliate against a  
2425 judge or a member of the Board of Pardons and Parole or acting against a family member of a  
2426 judge or a member of the Board of Pardons and Parole under Section 76-8-316.6;

2427 ~~[(c)]~~ (v) tampering with a witness [or soliciting or receiving a bribe, which is governed  
2428 by] under Section 76-8-508;

2429 ~~[(d)]~~ (vi) retaliation against a witness, victim, or informant[, which is governed by]  
2430 under Section 76-8-508.3; [or]

2431 (vii) tampering or retaliating against a juror under Section 76-8-508.5;

2432 (viii) receiving or soliciting a bribe as a witness under Section 76-8-508.7; or

2433 ~~[(e)]~~ (ix) extortion or bribery to dismiss a criminal proceeding[, which is governed by]  
2434 under Section 76-8-509.

2435 (c) Subsection (2)(e) does not apply to harboring a juvenile offender, which is  
2436 governed by Section 76-8-319.

2437 ~~[(7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony~~  
2438 ~~if the actor harbors or conceals an offender who has escaped from official custody as defined in~~  
2439 ~~Section 76-8-309.]~~

2440 (6) For purposes of Subsection (3), a violation of a criminal statute that is committed in  
2441 another state, or any district, possession, or territory of the United States, is:

2442 (a) a capital felony if the penalty provided includes death or life imprisonment without  
2443 parole;

2444 (b) a first degree felony if the penalty provided includes life imprisonment with parole  
2445 or a maximum term of imprisonment exceeding 15 years;

2446 (c) a second degree felony if the penalty provided exceeds five years;

2447 (d) a third degree felony if the penalty provided includes imprisonment for any period

2448 exceeding one year; or

2449 (e) a misdemeanor if the penalty provided includes imprisonment for any period of one  
2450 year or less.

2451 Section 42. Section **76-8-306.5** is amended to read:

2452 **76-8-306.5. Obstructing service of a Board of Pardons and Parole warrant or a**  
2453 **probationer order to show cause.**

2454 [A person is guilty of a third degree felony who:]

2455 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2456 (2) An actor commits obstructing service of a Board of Pardons and Parole warrant or a  
2457 probationer order to show cause if the actor:

2458 (a) knows that:

2459 (i) the Board of Pardons and Parole has issued a warrant for a parolee; or [that]

2460 (ii) a court has issued an order to show cause regarding a defendant's violation of the  
2461 terms of probation; and

2462 [~~(2)~~] (b) [~~(a)~~] (i) harbors or conceals the parolee or probationer;

2463 [~~(b)~~] (ii) provides the parolee or probationer with transportation, disguise, or other  
2464 means or assistance to avoid discovery; or

2465 [~~(c)~~] (iii) warns the parolee or probationer of [his] the parolee's or probationer's  
2466 impending discovery.

2467 (3) A violation of Subsection (2) is a third degree felony.

2468 Section 43. Section **76-8-307** is amended to read:

2469 **76-8-307. Failure to aid a peace officer.**

2470 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2471 (2) [A person is guilty of a class B misdemeanor] An actor commits failure to aid a  
2472 peace officer if, upon command by a peace officer identifiable or identified by [him] the peace  
2473 officer as such, [he] the actor unreasonably fails or refuses to aid the peace officer in effecting  
2474 an arrest or in preventing the commission of any offense by another person.

2475 (3) A violation of Subsection (2) is a class B misdemeanor.

2476 Section 44. Section **76-8-308** is amended to read:

2477 **76-8-308. Acceptance of bribe or bribery to prevent criminal prosecution.**

2478 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[A person is guilty of a class A misdemeanor if he]~~ An actor commits acceptance of  
bribe or bribery to prevent criminal prosecution if the actor:

(a) solicits, accepts, or agrees to accept any benefit as consideration for ~~[his]~~ the actor's  
refraining from initiating or aiding in a criminal prosecution; or

(b) confers, offers, or agrees to confer any benefit upon ~~[another]~~ a person as  
consideration for the person refraining from initiating or aiding in a criminal prosecution.

(3) A violation of Subsection (2) is a class A misdemeanor.

~~[(2)]~~ (4) It is an affirmative defense that the value of the benefit did not exceed an  
amount ~~[which]~~ that the actor believed to be due as restitution or indemnification for the loss  
caused or to be caused by the offense.

Section 45. Section **76-8-309** is amended to read:

**76-8-309. Escape.**

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

(i) "Confinement" means a prisoner is:

(A) housed in a state prison or another facility pursuant to a contract with the Utah  
Department of Corrections after being sentenced and committed and the sentence has not been  
terminated or voided or the prisoner is not on parole;

(B) lawfully detained in a county jail prior to trial or sentencing or housed in a county  
jail after sentencing and commitment and the sentence has not been terminated or voided or the  
prisoner is not on parole; or

(C) lawfully detained following arrest.

(ii) "Confinement in a state prison" means that an individual:

(A) is in prehearing custody after arrest for parole violation;

(B) is being housed in a county jail, after felony commitment, pursuant to a contract  
with the Department of Corrections; or

(C) is being transported as a prisoner in the state prison by a correctional officer.

(iii) "Escape" is considered to be a continuing activity commencing with the  
conception of the design to escape and continuing until the escaping prisoner is returned to  
official custody or the prisoner's attempt to escape is thwarted or abandoned.

(iv) "Lawful authorization" does not include authorization to leave official custody that  
is obtained by a prisoner by means of deceit, fraud, or other artifice.

2510 (v) "Official custody" means:  
 2511 (A) arrest, whether with or without a warrant;  
 2512 (B) confinement in a state prison, jail, or institution for secure confinement of juvenile  
 2513 offenders;  
 2514 (C) released from a prison or jail for work release or home visit subject to a designated  
 2515 time for return; or  
 2516 (D) any confinement pursuant to an order of a court or sentenced and committed and  
 2517 the sentence has not been terminated or voided or the prisoner is not on parole.  
 2518 (vi) "Prisoner" means any person who is in official custody and includes persons under  
 2519 trusty status.  
 2520 (vii) "Volunteer" means a person who donates service without pay or other  
 2521 compensation except expenses actually and reasonably incurred as approved by the supervising  
 2522 agency.  
 2523 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
 2524 [~~(a)~~] (2) [~~(i)~~ A prisoner is guilty of escape if the prisoner] An actor commits escape if  
 2525 the actor:  
 2526 (a) (i) is a prisoner; and  
 2527 (ii) leaves official custody without lawful authorization[-]; or  
 2528 (b) (i) is convicted as a party to an offense under this section, as defined in Section  
 2529 76-2-202; and  
 2530 (ii) is an employee at or a volunteer of:  
 2531 (A) a law enforcement agency, the Department of Corrections, a county or district  
 2532 attorney's office, the Office of the Attorney General, the Board of Pardons and Parole; or  
 2533 (B) a court, the Judicial Council, the Administrative Office of the Courts, or a similar  
 2534 administrative unit in the judicial branch of government.  
 2535 [~~(ii) If a prisoner obtains authorization to leave official custody by means of deceit,~~  
 2536 ~~fraud, or other artifice, the prisoner has not received lawful authorization.]~~  
 2537 [~~(b)~~] (3) (a) [~~Escape under this Subsection (1) is a~~] Except as provided by Subsection  
 2538 (3)(b) or Section 76-8-309.1, a violation of Subsection (2) is a third degree felony [~~except as~~  
 2539 provided under Subsection (1)(c)].  
 2540 [~~(c)~~] (b) [~~Escape under this Subsection (1)~~] Except as provided by Section 76-8-309.1,

2541 a violation of Subsection (2) is a second degree felony if:

2542 (i) the actor escapes ~~[from]~~ confinement in a state prison; ~~[or]~~

2543 (ii) the actor violates Subsection (2)(b); or

2544 (iii) the prisoner left official custody by failing to return from work release or home  
2545 visit by the time designated for return.

2546 ~~[(ii) (A) the actor is convicted as a party to the offense, as defined in Section 76-2-202;~~  
2547 ~~and]~~

2548 ~~[(B) the actor is an employee at or a volunteer of a law enforcement agency, the~~  
2549 ~~Department of Corrections, a county or district attorney's office, the office of the state attorney~~  
2550 ~~general, the Board of Pardons and Parole, or the courts, the Judicial Council, the~~  
2551 ~~Administrative Office of the Courts, or similar administrative units in the judicial branch of~~  
2552 ~~government.]~~

2553 ~~[(2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape the~~  
2554 ~~prisoner uses a dangerous weapon, as defined in Section 76-1-101.5, or causes serious bodily~~  
2555 ~~injury to another.]~~

2556 ~~[(b) Aggravated escape is a first degree felony.]~~

2557 ~~[(3)]~~ (4) ~~[Any prison term imposed upon a prisoner for escape under this section shall~~  
2558 ~~run consecutively with]~~ A court sentencing an actor for a violation of this section shall impose  
2559 a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

2560 ~~[(4) For the purposes of this section:]~~

2561 ~~[(a) "Confinement" means the prisoner is:]~~

2562 ~~[(i) housed in a state prison or any other facility pursuant to a contract with the Utah~~  
2563 ~~Department of Corrections after being sentenced and committed and the sentence has not been~~  
2564 ~~terminated or voided or the prisoner is not on parole;]~~

2565 ~~[(ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county~~  
2566 ~~jail after sentencing and commitment and the sentence has not been terminated or voided or the~~  
2567 ~~prisoner is not on parole; or]~~

2568 ~~[(iii) lawfully detained following arrest.]~~

2569 ~~[(b) "Escape" is considered to be a continuing activity commencing with the~~  
2570 ~~conception of the design to escape and continuing until the escaping prisoner is returned to~~  
2571 ~~official custody or the prisoner's attempt to escape is thwarted or abandoned.]~~

~~[(c) "Official custody" means arrest, whether with or without warrant, or confinement in a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement pursuant to an order of the court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole. A person is considered confined in the state prison if the person:]~~

~~[(i) without authority fails to return to the person's place of confinement from work release or home visit by the time designated for return;]~~

~~[(ii) is in prehearing custody after arrest for parole violation;]~~

~~[(iii) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or]~~

~~[(iv) is being transported as a prisoner in the state prison by correctional officers.]~~

~~[(d) "Prisoner" means any person who is in official custody and includes persons under trusty status.]~~

~~[(e) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.]~~

Section 46. Section **76-8-309.1** is enacted to read:

**76-8-309.1. Aggravated escape.**

(1) (a) As used in this section, "escape" means an offense under Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated escape if, during the course of the commission of an escape, the actor:

(a) uses a dangerous weapon; or

(b) causes serious bodily injury to another.

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

(4) A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

Section 47. Section **76-8-309.2** is enacted to read:

**76-8-309.2. Harboring or concealing an offender who has escaped from official custody.**

(1) (a) As used in this section, "official custody" means the same as that term is defined

2603 in Section 76-8-309.

2604 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2605 (2) An actor commits harboring or concealing an offender who has escaped from  
2606 official custody if the actor harbors or conceals an offender who has escaped from official  
2607 custody.

2608 (3) A violation of Subsection (2) is a third degree felony.

2609 Section 48. Section **76-8-311.1** is amended to read:

2610 **76-8-311.1. Establishment of secure areas -- Items prohibited -- References to**  
2611 **penalty provisions.**

2612 (1) [~~In addition to the definitions in Section 76-10-501, as]~~

2613 (a) As used in this section:

2614 [~~(a)~~] (i) "Correctional facility" [~~has the same meaning as]~~ means the same as that term  
2615 is defined in Section 76-8-311.3.

2616 (ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

2617 [~~(b)~~] (iii) "Explosive" [~~has the same meaning as defined for]~~ means the same as the  
2618 term "explosive, chemical, or incendiary device" defined in Section 76-10-306.

2619 (iv) "Firearm" means the same as that term is defined in Section 76-10-501.

2620 [~~(c)~~] (v) "Law enforcement facility" means a facility [~~which]~~ that is owned, leased, or  
2621 operated by a law enforcement agency.

2622 [~~(d)~~] (vi) "Mental health facility" [~~has the same meaning as]~~ means the same as that  
2623 term is defined in Section 26B-5-301.

2624 [~~(e)~~] (vii) [(i)] (A) "Secure area" means [~~any~~] an area created under this section into  
2625 which certain persons are restricted from transporting [~~any~~] a firearm or other dangerous  
2626 weapon, ammunition, [~~dangerous weapon,~~] or explosive.

2627 [(ii)] (B) A "secure area" may not include any area normally accessible to the public.

2628 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2629 (2) (a) [~~A person in charge of the]~~ The State Tax Commission or a correctional, law  
2630 enforcement, or mental health facility may establish secure areas within the facility and may  
2631 prohibit or control by rule any firearm or other dangerous weapon, ammunition, [~~dangerous~~  
2632 ~~weapon,~~] or explosive.

2633 (b) Subsections (2)(a), (3), (4), [~~(5), and (6)]~~ and (5) apply to a higher education secure

2634 area hearing ~~[rooms]~~ room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

2635 (3) ~~[At]~~ An entity that creates a secure area under this section shall ensure that at least  
 2636 one notice ~~[shall be]~~ is prominently displayed at each entrance to ~~[an]~~ the secure area in which  
 2637 a firearm, ammunition, dangerous weapon, or explosive is restricted.

2638 (4) (a) ~~[Provisions shall be made to]~~ An entity that creates a secure area under this  
 2639 section shall provide a secure weapons storage area so that ~~[persons]~~ an individual entering the  
 2640 secure area may store ~~[their weapons prior to]~~ the individual's weapon before entering the  
 2641 secure area.

2642 (b) The entity operating the facility shall be responsible for ~~[weapons]~~ a weapon while  
 2643 ~~[they are]~~ the weapon is stored in the storage area described in Subsection (4)(a).

2644 ~~[(5) It is a defense to any prosecution under this section that the accused, in committing~~  
 2645 ~~the act made criminal by this section, acted in conformity with the facility's rule or policy~~  
 2646 ~~established pursuant to this section.]~~

2647 ~~[(6) (5) (a) [Any person who knowingly or intentionally transports into a secure area~~  
 2648 ~~of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony]~~  
 2649 An actor who transports a firearm or other dangerous weapon or ammunition into a secure area  
 2650 created under this section or a higher education secure area hearing room created under this  
 2651 section may be punished under Section 76-8-311.2.

2652 (b) ~~[Any person violates Section 76-10-306]~~ An actor who knowingly or intentionally  
 2653 transports, possesses, distributes, or sells ~~[any]~~ an explosive in a secure area ~~[of a facility]~~ or a  
 2654 higher education secure area hearing room created under this section may be punished under  
 2655 Section 76-10-306.

2656 (c) It is a defense to a prosecution related to this section that the actor acted in  
 2657 conformity with the facility's rule or policy established pursuant to this section.

2658 Section 49. Section **76-8-311.2** is enacted to read:

2659 **76-8-311.2. Prohibited dangerous weapon or ammunition in a secure area.**

2660 (1) (a) As used in this section:

2661 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

2662 (ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

2663 (iii) "Firearm" means the same as that term is defined in Section 76-10-501.

2664 (iv) "Higher education secure area" means a higher education secure area hearing room

2665 created under Section 76-8-311.1.

2666 (v) "Law enforcement facility" means the same as that term is defined in Section  
 2667 76-8-311.1.

2668 (vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

2669 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2670 (2) An actor commits prohibited dangerous weapon or ammunition in a secure area if  
 2671 the actor knowingly or intentionally transports a firearm or other dangerous weapon or  
 2672 ammunition into:

2673 (a) a correctional facility;

2674 (b) a secure area created by the State Tax Commission;

2675 (c) a secure area in a law enforcement facility or a mental health facility; or

2676 (d) a higher education secure area.

2677 (3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of  
 2678 Subsection (2) is a third degree felony.

2679 (4) It is a defense to a prosecution under this section that the actor acted in conformity  
 2680 with the facility's rule or policy established under Section 76-8-311.1.

2681 Section 50. Section **76-8-311.3** is amended to read:

2682 **76-8-311.3. Establishment of prohibited item policy in a correctional or mental**  
 2683 **health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**

2684 (1) (a) As used in this section:

2685 ~~[(a) "Contraband" means any item not specifically prohibited for possession by~~  
 2686 ~~offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.]~~

2687 ~~[(b)]~~ (i) "Controlled substance" means ~~[any]~~ a substance defined as a controlled  
 2688 substance under Title 58, Chapter 37, Utah Controlled Substances Act.

2689 ~~[(c)]~~ (ii) "Correctional facility" means:

2690 ~~[(i)]~~ (A) ~~[any]~~ a facility operated by or contracting with the Department of Corrections  
 2691 to house ~~[offenders]~~ an offender in either a secure or nonsecure setting;

2692 ~~[(ii)]~~ (B) ~~[any]~~ a facility operated by a municipality or a county to house or detain  
 2693 ~~[criminal offenders]~~ a criminal offender;

2694 ~~[(iii)]~~ (C) ~~[any]~~ a juvenile detention facility; ~~[and]~~ or

2695 ~~[(iv)]~~ (D) ~~[any]~~ a building or grounds appurtenant to ~~[the]~~ a facility or ~~[lands]~~ land

2696 granted to the state, municipality, or county for use as a correctional facility.

2697 ~~[(d)]~~ (iii) "Dangerous weapon" means the same as that term is defined in Section  
2698 76-10-501.

2699 ~~(iv)~~ (iv) "Electronic cigarette product" means the same as that term is defined in Section  
2700 76-10-101.

2701 ~~(v)~~ (v) "Firearm" means the same as that term is defined in Section 76-10-501.

2702 ~~[(e)]~~ (vi) "Medicine" means ~~[any]~~ a prescription drug as defined in Title 58, Chapter  
2703 17b, Pharmacy Practice Act, but does not include ~~[any]~~ a controlled ~~[substances]~~ substance as  
2704 defined in Title 58, Chapter 37, Utah Controlled Substances Act.

2705 ~~[(f)]~~ (vii) "Mental health facility" means the same as that term is defined in Section  
2706 26B-5-301.

2707 ~~[(g)]~~ (viii) "Nicotine product" means the same as that term is defined in Section  
2708 76-10-101.

2709 ~~[(h)]~~ (ix) "Offender" means ~~[a person]~~ an individual in custody at a correctional  
2710 facility.

2711 ~~[(i)]~~ (x) "Secure area" means the same as that term is defined in Section 76-8-311.1.

2712 ~~[(j)]~~ (xi) "Tobacco product" means the same as that term is defined in Section  
2713 76-10-101.

2714 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2715 (2) Notwithstanding Section 76-10-500, a correctional facility or a mental health  
2716 facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of  
2717 escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in  
2718 any quantity may be:

2719 (a) transported to or ~~[upon]~~ within a correctional facility or a mental health facility;

2720 (b) sold or given away at ~~[any]~~ a correctional facility or a mental health facility;

2721 (c) given to or used by ~~[any]~~ an offender at a correctional facility or a mental health  
2722 facility; or

2723 (d) knowingly or intentionally possessed at a correctional facility or a mental health  
2724 facility.

2725 (3) It is a defense to ~~[any]~~ a prosecution ~~[under]~~ related to this section ~~[if the accused~~  
2726 in] that the actor, in committing the act made criminal by this section with respect to:

2727 (a) a correctional facility operated by the Department of Corrections, acted in  
2728 conformity with departmental rule or policy;

2729 (b) a correctional facility operated by a municipality, acted in conformity with the  
2730 policy of the municipality;

2731 (c) a correctional facility operated by a county, acted in conformity with the policy of  
2732 the county; or

2733 (d) a mental health facility, acted in conformity with the policy of the mental health  
2734 facility.

2735 ~~[(4)(a) An individual who transports to or upon a correctional facility, or into a secure~~  
2736 ~~area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of~~  
2737 ~~escape with intent to provide or sell it to any offender, is guilty of a second degree felony.]~~

2738 ~~[(b) An individual who provides or sells to any offender at a correctional facility, or~~  
2739 ~~any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous~~  
2740 ~~weapon, or implement of escape is guilty of a second degree felony.]~~

2741 ~~[(c) An offender who possesses at a correctional facility, or a detainee who possesses at~~  
2742 ~~a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or~~  
2743 ~~implement of escape is guilty of a second degree felony.]~~

2744 ~~[(d) An individual who, without the permission of the authority operating the~~  
2745 ~~correctional facility or the secure area of a mental health facility, knowingly possesses at a~~  
2746 ~~correctional facility or a secure area of a mental health facility any firearm, ammunition,~~  
2747 ~~dangerous weapon, or implement of escape is guilty of a third degree felony.]~~

2748 ~~[(e) An individual violates Section 76-10-306 who knowingly or intentionally~~  
2749 ~~transports, possesses, distributes, or sells any explosive in a correctional facility or mental~~  
2750 ~~health facility.]~~

2751 ~~[(5)(a) An individual is guilty of a third degree felony who, without the permission of~~  
2752 ~~the authority operating the correctional facility or secure area of a mental health facility,~~  
2753 ~~knowingly transports to or upon a correctional facility or into a secure area of a mental health~~  
2754 ~~facility any:]~~

2755 ~~[(i) spirituous or fermented liquor;]~~

2756 ~~[(ii) medicine, whether or not lawfully prescribed for the offender; or]~~

2757 ~~[(iii) poison in any quantity.]~~

2758 ~~[(b) An individual is guilty of a third degree felony who knowingly violates~~  
2759 ~~correctional or mental health facility policy or rule by providing or selling to any offender at a~~  
2760 ~~correctional facility or detainee within a secure area of a mental health facility any:]~~

2761 ~~[(i) spirituous or fermented liquor;]~~

2762 ~~[(ii) medicine, whether or not lawfully prescribed for the offender; or]~~

2763 ~~[(iii) poison in any quantity.]~~

2764 ~~[(c) An inmate is guilty of a third degree felony who, in violation of correctional or~~  
2765 ~~mental health facility policy or rule, possesses at a correctional facility or in a secure area of a~~  
2766 ~~mental health facility any:]~~

2767 ~~[(i) spirituous or fermented liquor;]~~

2768 ~~[(ii) medicine, other than medicine provided by the facility's health care providers in~~  
2769 ~~compliance with facility policy; or]~~

2770 ~~[(iii) poison in any quantity.]~~

2771 ~~[(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or~~  
2772 ~~indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product~~  
2773 ~~to an offender, directly or indirectly:]~~

2774 ~~[(i) transports, delivers, or distributes any tobacco product, electronic cigarette product,~~  
2775 ~~or nicotine product to an offender or on the grounds of any correctional facility;]~~

2776 ~~[(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another~~  
2777 ~~person to transport any tobacco product, electronic cigarette product, or nicotine product to an~~  
2778 ~~offender or on any correctional facility, if the person is acting with the mental state required for~~  
2779 ~~the commission of an offense; or]~~

2780 ~~[(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic~~  
2781 ~~cigarette product, or nicotine product in violation of this section to an offender or on the~~  
2782 ~~grounds of any correctional facility.]~~

2783 ~~[(e) An individual is guilty of a class A misdemeanor who, without the permission of~~  
2784 ~~the authority operating the correctional or mental health facility, fails to declare or knowingly~~  
2785 ~~possesses at a correctional facility or in a secure area of a mental health facility any:]~~

2786 ~~[(i) spirituous or fermented liquor;]~~

2787 ~~[(ii) medicine; or]~~

2788 ~~[(iii) poison in any quantity.]~~

~~[(f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.]~~

~~[(ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).]~~

~~[(g)]~~

(4) (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, or 76-8-311.10 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-10-306.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

~~[(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.]~~

~~[(7)]~~ (6) The [department] Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.

Section 51. Section **76-8-311.4** is enacted to read:

**76-8-311.4. Prohibited item in correctional or mental health facility for use by offender or detainee.**

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

2820 (iii) "Mental health facility" means the same as that term is defined in Section  
2821 76-8-311.3.

2822 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

2823 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

2824 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2825 (2) An actor commits prohibited item in correctional or mental health facility for use  
2826 by offender or detainee if the actor:

2827 (a) transports a dangerous weapon, ammunition, or implement of escape to or within a  
2828 correctional facility, or into a secure area of a mental health facility, with the intent to provide  
2829 or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape;  
2830 or

2831 (b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

2832 (i) an offender at a correctional facility; or

2833 (ii) a detainee at a secure area of a mental health facility.

2834 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second  
2835 degree felony.

2836 (4) The defenses provided in Section 76-8-311.3 apply to this section.

2837 Section 52. Section **76-8-311.6** is enacted to read:

2838 **76-8-311.6. Possession of prohibited item by offender or detainee in correctional**  
2839 **or mental health facility.**

2840 (1) (a) As used in this section:

2841 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

2842 (ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

2843 (iii) "Mental health facility" means the same as that term is defined in Section  
2844 76-8-311.3.

2845 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

2846 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

2847 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2848 (2) An actor commits possession of prohibited item by offender or detainee in  
2849 correctional or mental health facility if the actor:

2850 (a) (i) is an offender at a correctional facility; or

(ii) is a detainee at a mental health facility; and

(b) possesses a dangerous weapon, ammunition, or an implement of escape.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 53. Section **76-8-311.7** is enacted to read:

**76-8-311.7. Possession of prohibited item in correctional facility or secure area of mental health facility.**

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.

(3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 54. Section **76-8-311.8** is enacted to read:

**76-8-311.8. Prohibited substance in correctional or mental health facility.**

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Medicine" means the same as that term is defined in Section 76-8-311.3.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

2882 (v) "Prohibited substance" means:  
2883 (A) spirituous or fermented liquor;  
2884 (B) medicine, whether or not lawfully prescribed for an offender or a detainee; or  
2885 (C) poison in any quantity.  
2886 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
2887 (2) An actor commits prohibited substance in a correctional or mental health facility if  
2888 the actor:  
2889 (a) without the permission of the authority operating the correctional facility or secure  
2890 area of a mental health facility:  
2891 (i) knowingly transports a prohibited substance to or within a correctional facility or  
2892 into a secure area of a mental health facility; or  
2893 (ii) fails to declare or knowingly possesses a prohibited substance at a correctional  
2894 facility or in a secure area of a mental health facility;  
2895 (b) knowingly violates correctional or mental health facility policy or rule by providing  
2896 or selling a prohibited substance to an offender at a correctional facility or a detainee within a  
2897 secure area of a mental health facility; or  
2898 (c) (i) is a detainee in a mental health facility or an offender; and  
2899 (ii) in violation of correctional or mental health facility policy or rule, possesses at a  
2900 correctional facility or in a secure area of a mental health facility a prohibited substance other  
2901 than medicine provided by the facility's health care providers in compliance with facility  
2902 policy.  
2903 (3) (a) Except as provided in Subsection (4), a violation of Subsection (2)(a)(i), (2)(b),  
2904 or (2)(c) is a third degree felony.  
2905 (b) Except as provided in Subsection (4), a violation of Subsection (2)(a)(ii) is a class  
2906 A misdemeanor.  
2907 (4) The defenses provided in Section 76-8-311.3 apply to this section.  
2908 Section 55. Section **76-8-311.9** is enacted to read:  
2909 **76-8-311.9. Prohibited tobacco, electronic cigarette, or nicotine product in a**  
2910 **correctional facility.**  
2911 (1) (a) As used in this section:  
2912 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(iii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited tobacco, electronic cigarette, or nicotine product in a correctional facility if the actor, with the intent to directly or indirectly provide or sell a tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:

(a) transports, delivers, or distributes a tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of a correctional facility;

(b) solicits, requests, commands, coerces, encourages, or intentionally aids another individual to transport a tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of a correctional facility, if the other individual is acting with the mental state required for the commission of an offense; or

(c) facilitates, arranges, or causes the transport of a tobacco product, electronic cigarette product, or nicotine product in violation of this section or Section 76-8-311.3 to an offender or on the grounds of a correctional facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class A misdemeanor.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

(5) In accordance with Section 76-10-311.3, the Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing a tobacco product, electronic cigarette product, or nicotine product to an offender is a class A misdemeanor.

Section 56. Section **76-8-311.10** is enacted to read:

**76-8-311.10. Possession of contraband in a correctional facility.**

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

(i) "Contraband" means an item not specifically prohibited for possession by an offender under this section or Section 76-8-311.3, 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, or 76-8-311.9.

2944 (ii) "Correctional facility" means the same as that term is defined in Section  
 2945 76-8-311.3.

2946 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2947 (2) An actor commits possession of contraband in a correctional facility if the actor,  
 2948 without the permission of the authority operating a correctional facility, knowingly engages in  
 2949 an activity that would facilitate the possession of contraband by an offender in the correctional  
 2950 facility.

2951 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B  
 2952 misdemeanor.

2953 (4) (a) The possession, distribution, or use of a controlled substance at a correctional  
 2954 facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled  
 2955 Substances Act.

2956 (b) The provisions of Section 76-8-311.9 take precedence over this section.

2957 (c) The defenses provided in Section 76-8-311.3 apply to this section.

2958 Section 57. Section **76-8-312** is amended to read:

2959 **76-8-312. Unlawful absence after pretrial release.**

2960 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2961 (2) ~~[A person is guilty of an offense when having]~~ An actor commits unlawful absence  
 2962 after pretrial release if the actor:

2963 (a) ~~has been [released on bail or on his own recognizance]~~ granted pretrial release by  
 2964 court order or by other lawful authority upon condition that ~~[he]~~ the actor subsequently appear  
 2965 personally upon a charge of an offense~~[-]; and~~

2966 (b) ~~[he]~~ fails without just cause to appear at the time and place ~~[which]~~ that have been  
 2967 lawfully designated for ~~[his]~~ the actor's appearance.

2968 ~~[(2)]~~ (3) A violation of Subsection (2) is:

2969 (a) a third degree felony if the offense for which the actor failed to appear is a felony;

2970 (b) a class B misdemeanor if the offense for which the actor failed to appear is a  
 2971 misdemeanor; or

2972 (c) an infraction if the offense for which the actor failed to appear is an infraction.~~[An~~  
 2973 ~~offense under this section is a felony of the third degree when the offense charged is a felony, a~~  
 2974 ~~class B misdemeanor when the offense charged is a misdemeanor, and an infraction when the~~

2975 ~~offense charged is an infraction.]~~

2976 Section 58. Section **76-8-313** is amended to read:

2977 **76-8-313. Threatened or attempted assault on an elected official.**

2978 (1) (a) As used in this section, "elected official" means:

2979 (i) an elected official of the state, county, or city;

2980 (ii) an immediate family member of an individual described in Subsection (1)(a)(i);

2981 (iii) a temporary judge appointed to fill a vacant judicial position;

2982 (iv) a judge not yet retained by a retention election;

2983 (v) a member of a school board; or

2984 (vi) an individual appointed to fill a vacant position of an individual described in

2985 Subsection (1)(a)(i).

2986 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2987 (2) [A person] An actor commits threatened or attempted assault on an elected official

2988 [when he] if the actor attempts or threatens, irrespective of a showing of immediate force or

2989 violence, to inflict bodily injury [to the] on an elected official with the intent to impede,

2990 intimidate, or interfere with the elected official in the performance of [his] the elected official's

2991 official duties or with the intent to retaliate against the elected official because of the

2992 performance of [his] the elected official's official duties.

2993 (3) (a) Except as provided by Subsection (3)(b), a violation of Subsection (2) is a class

2994 B misdemeanor.

2995 (b) A violation of Subsection (2) is a third degree felony if:

2996 (i) the actor attempts to inflict bodily injury; or

2997 (ii) the elected official receives bodily injury.

2998 Section 59. Section **76-8-316** is amended to read:

2999 **76-8-316. Threat with intent to impede, intimidate, interfere, or retaliate against**

3000 **a judge or member of the Board of Pardons and Parole or acting against a family**

3001 **member of a judge or a member of the Board of Pardons and Parole.**

3002 (1) (a) As used in this section:

3003 [~~(a)~~] (i) "Board member" means an appointed member of the Board of Pardons and

3004 Parole.

3005 [~~(b)~~] (ii) "Family member" means [~~parents;~~] a parent, spouse, surviving spouse,

3006 ~~[children, and siblings]~~ child, and sibling of a judge or board member.

3007 ~~[(c)]~~ (iii) "Judge" means ~~[judges of all courts of record and courts not of record and~~  
3008 ~~court commissioners.];~~

3009 (A) a judge of a court of record;

3010 (B) a judge of a court not of record; or

3011 (C) a court commissioner.

3012 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3013 (2) [A person is guilty of a third degree felony if the person] An actor commits threat  
3014 with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or  
3015 family member if the actor threatens to assault, kidnap, or murder a judge, [a family member of  
3016 a judge,] a board member, or a family member [of a board member] with the intent to impede,  
3017 intimidate, or interfere with the judge or board member while engaged in the performance of  
3018 the judge's or board member's official duties or with the intent to retaliate against the judge or  
3019 board member on account of the performance of those official duties.

3020 ~~[(3) A person is guilty of a second degree felony if the person commits an assault on a~~  
3021 ~~judge, a family member of a judge, a board member, or a family member of a board member~~  
3022 ~~with the intent to impede, intimidate, or interfere with the judge or board member while~~  
3023 ~~engaged in the performance of the judge's or board member's official duties, or with the intent~~  
3024 ~~to retaliate against the judge or board member on account of the performance of those official~~  
3025 ~~duties.]~~

3026 ~~[(4) A person is guilty of a first degree felony if the person commits aggravated assault~~  
3027 ~~on a judge, a family member of a judge, a board member, or a family member of a board~~  
3028 ~~member with the intent to impede, intimidate, or interfere with the judge or board member~~  
3029 ~~while engaged in the performance of the judge's or board member's official duties or with the~~  
3030 ~~intent to retaliate against the judge or board member on account of the performance of those~~  
3031 ~~official duties.]~~

3032 ~~[(5) A person is guilty of a first degree felony if the person commits attempted murder~~  
3033 ~~on a family member of a judge or a family member of a board member with the intent to~~  
3034 ~~impede, intimidate, or interfere with the judge or board member while engaged in the~~  
3035 ~~performance of the judge's or board member's official duties or with the intent to retaliate~~  
3036 ~~against the judge or board member on account of the performance of those official duties.]~~

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

~~[(6) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202(2)(a)(xiii).]~~

Section 60. Section **76-8-316.2** is enacted to read:

**76-8-316.2. Assault with intent to impede, intimidate, interfere, or retaliate against a judge or 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.**

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits assault with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits an assault on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

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

Section 61. Section **76-8-316.4** is enacted to read:

**76-8-316.4. Aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or 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.**

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits aggravated assault on a judge, a board member, or a family member with the intent to impede, intimidate,

or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

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

Section 62. Section **76-8-316.6** is enacted to read:

**76-8-316.6. Attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or 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.**

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits attempted murder on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

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

(4) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202(2)(a)(xiii).

Section 63. Section **76-8-317** is amended to read:

**76-8-317. Refusal to comply with an order to evacuate or order issued in a local or state emergency.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[A person may not refuse to]~~ An actor commits refusal to comply with an order to evacuate or order issued in a local or state emergency if the actor:

(a) receives notice of:

(i) an order to evacuate issued under ~~[this chapter or refuse to comply with any other]~~

Title 53, Chapter 2a, Emergency Management Act; or

3099           (ii) an order issued;  
 3100           (A) by the governor in a state of an emergency under Section 53-2a-204; or  
 3101           (B) by a chief executive officer in a local emergency under Section 53-2a-205[, if  
 3102 ~~notice of the order has been given to that person.]; and~~  
 3103           (b) refuses to comply with the order described in Subsection (2)(a).  
 3104           ~~[(2)] (3) [A person who violates this section is guilty of]~~ A violation of Subsection (2)  
 3105 is a class B misdemeanor.  
 3106           Section 64. Section **76-8-318** is amended to read:  
 3107           **76-8-318. Assault or threat of violence against child welfare worker.**  
 3108           (1) (a) As used in this section:  
 3109           ~~[(a)] (i) "Assault" means [the same as that term is defined in]~~ an offense under Section  
 3110 76-5-102.  
 3111           ~~[(b)] (ii) "Child welfare worker" means an employee of the Division of Child and~~  
 3112 Family Services created in Section 80-2-201.  
 3113           ~~[(c)] (iii) "Threat of violence" means [the same as that term is defined in]~~ an offense  
 3114 under Section 76-5-107.  
 3115           (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
 3116           (2) ~~[An individual who commits an assault or threat of violence against a child welfare~~  
 3117 ~~worker is guilty of a class A misdemeanor]~~ An actor commits assault or threat of violence  
 3118 against child welfare worker if:  
 3119           (a) the ~~[individual]~~ actor is not:  
 3120           (i) a prisoner or an individual detained under Section 77-7-15; or  
 3121           (ii) a minor in the custody of or receiving services from a division within the  
 3122 Department of Health and Human Services;  
 3123           (b) the ~~[individual]~~ actor knew that the victim was a child welfare worker; and  
 3124           (c) the child welfare worker was acting within the scope of the child welfare worker's  
 3125 authority at the time of the assault or threat of violence.  
 3126           (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class  
 3127 A misdemeanor.  
 3128           (b) A violation of Subsection (2) is~~[An individual who violates this section is guilty of]~~  
 3129 a third degree felony if the [individual] actor:

3130 ~~[(a)]~~ (i) causes substantial bodily injury~~[, as defined in Section 76-1-101.5]; and~~  
 3131 ~~[(b)]~~ (ii) acts intentionally or knowingly.

3132 Section 65. Section **76-8-319**, which is renumbered from Section 76-8-311.5 is  
 3133 renumbered and amended to read:

3134 ~~[76-8-311.5].~~ **76-8-319. Aiding or concealing an adjudicated minor--**  
 3135 **Trespass of a secure care facility -- Criminal penalties.**

3136 (1) (a) As used in this section:

3137 ~~[(a)]~~ (i) Abscond from a facility" means an adjudicated minor:

3138 (A) leaves a facility without permission; or

3139 (B) fails to return at a prescribed time.

3140 (ii) "Abscond from supervision" means an adjudicated minor:

3141 (A) changes the adjudicated minor's residence from the residence that the adjudicated  
 3142 minor reported to the division as the adjudicated minor's correct address to another residence,  
 3143 without notifying the division or obtaining permission; or

3144 (B) for the purpose of avoiding supervision:

3145 (I) hides at a different location from the adjudicated minor's reported residence; or

3146 (II) leaves the adjudicated minor's reported residence.

3147 (iii) "Adjudicated minor" means the same as the term "minor" is defined in Section  
 3148 80-6-501.

3149 (iv) "Division" means the Division of Juvenile Justice Services created in Section  
 3150 80-5-103.

3151 (v) "Facility" means the same as the term "detention facility" is defined in Section  
 3152 80-1-102.

3153 ~~[(b)]~~ ~~"Juvenile offender" means the same as that term is defined in Section 80-1-102.]~~

3154 ~~[(c)]~~ (vi) "Secure care" means the same as that term is defined in Section 80-1-102.

3155 ~~[(d)]~~ (vii) "Secure care facility" means the same as that term is defined in Section  
 3156 80-1-102.

3157 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3158 ~~[(2) An individual who commits any of the following offenses is guilty of a class A~~  
 3159 ~~misdemeanor:]~~

3160 ~~[(a) entering, or attempting to enter, a building or enclosure appropriated to the use of~~

3161 juvenile offenders, without permission;]  
3162 ~~[(b) entering any premises belonging to a secure care facility and committing or~~  
3163 ~~attempting to commit a trespass or damage on the premises of a secure care facility, or]~~  
3164 ~~[(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a~~  
3165 ~~juvenile offender in a secure care facility.]~~  
3166 ~~[(3)]~~ (2) An ~~[individual is guilty of a third degree felony who]~~ an actor commits aiding  
3167 or concealing an adjudicated minor if the actor:  
3168 (a) knowingly harbors or conceals ~~[a juvenile offender]~~ an adjudicated minor who has:  
3169 (i) escaped from secure care; or  
3170 (ii) ~~[as described in Subsection (4);]~~ absconded from:  
3171 (A) a facility or supervision; or  
3172 (B) supervision of the division; or  
3173 (b) willfully aided or assisted ~~[a juvenile offender]~~ an adjudicated minor who has been  
3174 lawfully committed to a secure care facility in escaping or attempting to escape from the secure  
3175 care facility.  
3176 ~~[(4) As used in this section:]~~  
3177 ~~[(a) a juvenile offender absconds from a facility under this section when the juvenile~~  
3178 ~~offender:]~~  
3179 ~~[(i) leaves the facility without permission; or]~~  
3180 ~~[(ii) fails to return at a prescribed time.]~~  
3181 ~~[(b) A juvenile offender absconds from supervision when the juvenile offender:]~~  
3182 ~~[(i) changes the juvenile offender's residence from the residence that the juvenile~~  
3183 ~~offender reported to the division as the juvenile offender's correct address to another residence,~~  
3184 ~~without notifying the division or obtaining permission; or]~~  
3185 ~~[(ii) for the purpose of avoiding supervision:]~~  
3186 ~~[(A) hides at a different location from the juvenile offender's reported residence; or]~~  
3187 ~~[(B) leaves the juvenile offender's reported residence.]~~  
3188 (3) A violation of Subsection (2) is a third degree felony.  
3189 Section 66. Section **76-8-320** is enacted to read:  
3190 **76-8-320. Trespass of a secure care facility.**  
3191 (1) (a) As used in this section:

3192 (i) "Juvenile offender" means the same as that term is defined in Section 76-8-311.5.  
 3193 (ii) "Secure care facility" means the same as that term is defined in Section 76-8-311.5.  
 3194 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
 3195 (2) An actor commits trespass of a secure care facility if the actor:  
 3196 (a) without permission, enters or attempts to enter a building or enclosure appropriated  
 3197 to the use of juvenile offenders;  
 3198 (b) (i) enters any premises belonging to a secure care facility; and  
 3199 (ii) commits or attempts to commit a trespass or damage on the premises of the secure  
 3200 care facility; or  
 3201 (c) willfully annoys or disturbs the peace and quiet of:  
 3202 (i) a secure care facility; or  
 3203 (ii) of a juvenile offender in a secure care facility.  
 3204 (3) A violation of Subsection (2) is a class A misdemeanor.  
 3205 Section 67. Section **76-8-402** is amended to read:  
 3206 **76-8-402. Misusing public money or public property -- Disqualification from**  
 3207 **office.**  
 3208 (1) (a) As used in this section, "authorized personal use" means:  
 3209 ~~[(a)]~~ (i) the use of public property, for a personal matter, by ~~[a]~~ an actor who is a public  
 3210 servant if:  
 3211 ~~[(i)]~~ (A) the ~~[public servant]~~ actor is authorized to use or possess the public property to  
 3212 fulfill the ~~[public servant's]~~ actor's duties as a public servant;  
 3213 ~~[(ii)]~~ (B) the primary purpose of the ~~[public servant]~~ actor using or possessing the  
 3214 public property is to fulfill the ~~[public servant's]~~ actor's duties as a public servant;  
 3215 ~~[(iii)]~~ (C) at the time the ~~[public servant]~~ actor uses the public property for a personal  
 3216 matter, a written policy of the ~~[public servant's]~~ actor's public entity is in effect that authorizes  
 3217 the ~~[public servant]~~ actor to use or possess the public property for personal use in addition to  
 3218 the primary purpose of fulfilling the ~~[public servant's]~~ actor's duties as a public servant; and  
 3219 ~~[(iv)]~~ (D) the ~~[public servant]~~ actor uses and possesses the public property in a lawful  
 3220 manner and in accordance with the policy described in Subsection ~~[(1)(a)(iii);]~~ (1)(a)(i)(C); or  
 3221 ~~[(b)]~~ (ii) incidental or de minimus use of public property for a personal matter by ~~[a~~  
 3222 public servant;] an actor who is a public servant if:

3223           [(~~fi~~)] (A) the value provided to the [~~public servant's~~] actor's public entity by the [~~public~~  
 3224 ~~servant's~~] actor's use or possession of the public property for a public purpose substantially  
 3225 outweighs the personal benefit received by the [~~employee~~] actor from the incidental use of the  
 3226 public property for a personal matter; and

3227           [(~~fi~~)] (B) the incidental or de minimus use of the public property for a personal matter  
 3228 is not prohibited by law or by the [~~public servant's~~] actor's public entity.

3229           (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3230           (2) [~~It is unlawful for a public servant to~~] An actor commits misusing public money or  
 3231 public property if the actor is a public servant and knowingly:

3232           (a) [~~appropriate~~] appropriates public money to the [~~public servant's~~] actor's own use or  
 3233 benefit or to the use or benefit of another person without authority of law;

3234           (b) [~~loan or transfer~~] loans or transfers public money without authority of law;

3235           (c) [~~fail~~] fails to keep public money in the [~~public servant's~~] actor's possession until  
 3236 disbursed by authority of law;

3237           (d) [~~deposit~~] deposits public money in a bank or with another person in violation of the  
 3238 written policy of the [~~public servant's~~] actor's public entity or the requirements of law;

3239           (e) [~~keep~~] keeps a false account or [~~make~~] makes a false entry or erasure in an account  
 3240 of, or relating to, public money;

3241           (f) fraudulently [~~alter, falsify, conceal, or destroy~~] alters, falsifies, conceals, or destroys  
 3242 an account described in Subsection (2)(e);

3243           (g) [~~refuse or omit~~] refuses or omits to pay over, on demand, any public money in the  
 3244 [~~public servant's~~] actor's custody or control, upon the presentation of a draft, order, or warrant  
 3245 drawn upon the public money by competent authority;

3246           (h) [~~omit~~] omits to transfer public money when the transfer is required by law;

3247           (i) [~~omit or refuse~~] omits or refuses to pay over, to [~~any~~] an officer or person  
 3248 authorized by law to receive public money, public money received by the [~~public servant~~] actor  
 3249 under any duty imposed on the [~~public servant~~] actor by law;

3250           (j) [~~damage or dispose~~] damages or disposes of public property in violation of the  
 3251 written policy of the [~~public servant's~~] actor's public entity or the requirements of law;

3252           (k) [~~obtain or exercise~~] obtains or exercises unauthorized control of public property  
 3253 with the intent to deprive the owner of possession of the public property;

3254 (l) ~~[obtain or exercise]~~ obtains or exercises unauthorized control of public property  
 3255 with the intent to temporarily appropriate, possess, use, or deprive the owner of possession of  
 3256 the public property;

3257 (m) ~~[appropriate]~~ appropriates public property to the ~~[public servant's]~~ actor's own use  
 3258 or benefit or to the use or benefit of another person without authority of law;

3259 (n) ~~[loan or transfer]~~ loans or transfers public property without authority of law; or

3260 (o) ~~[fail]~~ fails to keep public property in the ~~[public servant's]~~ actor's possession until  
 3261 returned to the property owner[;] or disposed of or relinquished[;] in accordance with the  
 3262 written policy of the ~~[public servant's]~~ actor's public entity and the requirements of law.

3263 (3) (a) Except as provided ~~[in Subsection (4)]~~ by Subsection (3)(b), a violation of  
 3264 Subsections (2)(a) through (i) is a third degree felony ~~[of the third degree]~~.

3265 ~~[(4)]~~ (b) A violation of Subsections (2)(a) through (i) is a second degree felony ~~[of the~~  
 3266 second degree] if:

3267 ~~[(a)]~~ (i) the value of the public money exceeds \$5,000;

3268 ~~[(b)]~~ (ii) the amount of the false account exceeds \$5,000;

3269 ~~[(c)]~~ (iii) the amount falsely entered exceeds \$5,000;

3270 ~~[(d)]~~ (iv) the amount that is the difference between the original amount and the  
 3271 fraudulently altered amount exceeds \$5,000; or

3272 ~~[(e)]~~ (v) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the  
 3273 account exceeds \$5,000.

3274 ~~[(5)]~~ (c) A violation of Subsection (2)(j) is:

3275 ~~[(a)]~~ (i) a class B misdemeanor[;] if the cost to repair or replace the public property is  
 3276 less than \$500;

3277 ~~[(b)]~~ (ii) a class A misdemeanor[;] if the cost to repair or replace the public property is  
 3278 \$500 or more, but less than \$1,500;

3279 ~~[(c)]~~ (iii) a third degree felony ~~[of the third degree]~~, if the cost to repair or replace the  
 3280 public property is \$1,500 or more, but less than \$5,000; or

3281 ~~[(d)]~~ (iv) a second degree felony ~~[of the second degree]~~, if the cost to repair or replace  
 3282 the public property is \$5,000 or more.

3283 ~~[(6)]~~ (d) A violation of Subsection (2)(k), (m), (n), or (o) is:

3284 ~~[(a)]~~ (i) a class B misdemeanor[;] if the value of the public property is less than \$500;

3285 ~~[(b)]~~ (ii) a class A misdemeanor[;] if the value of the public property is \$500 or more,  
 3286 but less than \$1,500;

3287 ~~[(c)]~~ (iii) a third degree felony ~~[of the third degree;]~~ if the value of the public property  
 3288 is \$1,500 or more, but less than \$5,000; or

3289 ~~[(d)]~~ (iv) a second degree felony ~~[of the second degree;]~~ if the value of the public  
 3290 property is \$5,000 or more.

3291 ~~[(7)]~~ (e) A violation of Subsection (2)(l) is:

3292 ~~[(a)]~~ (i) a class C misdemeanor[;] if the value of the public property is less than \$500;

3293 ~~[(b)]~~ (ii) a class B misdemeanor[;] if the value of the public property is \$500 or more,  
 3294 but less than \$1,500;

3295 ~~[(c)]~~ (iii) a class A misdemeanor[;] if the value of the public property is \$1,500 or  
 3296 more, but less than \$5,000; or

3297 ~~[(d)]~~ (iv) a third degree felony ~~[of the third degree;]~~ if the value of the public property  
 3298 is \$5,000 or more.

3299 ~~[(8) In addition to the penalty described in Subsections (3) through (7), a public officer  
 3300 who is convicted of a felony violation of Subsection (2):]~~

3301 ~~[(a) is subject to the penalties described in Section 76-8-404; and]~~

3302 ~~[(b) may not disburse public funds or access public accounts.]~~

3303 ~~[(9) (a) A public servant is not guilty of a violation of Subsections (2)(j) through (o)]~~  
 3304 ~~[for authorized personal use of public property].~~

3305 ~~[(10)]~~ (4) It is not a defense to a violation of Subsection (2) that:

3306 (a) subsequent to the violation, a public entity modifies or adopts a policy or law, or  
 3307 takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a  
 3308 violation; or

3309 (b) a written policy of the ~~[public servant's]~~ actor's public entity permits private use of  
 3310 the public property if it is proven, beyond a reasonable doubt, that the ~~[public servant]~~ actor did  
 3311 not comply with the written policy.

3312 (5) Subsections (2)(j) through (2)(o) do not apply to the authorized personal use of  
 3313 public property.

3314 (6) In addition to the punishment described in Subsection (3), an actor who:

3315 (a) is convicted of a felony offense under this section may not disburse public funds or

3316 access public accounts; or

3317 (b) is a public officer and is convicted of a felony offense under this section is

3318 disqualified from holding public office if:

3319 (i) regardless of whether the public officer receives, safekeeps, transfers, disburses, or

3320 has a fiduciary relationship with public money, the public officer makes a profit from or out of

3321 public money or public property; or

3322 (ii) the public officer uses public money or public property in a manner or for a

3323 purpose not authorized by law.

3324 Section 68. Section **76-8-403** is amended to read:

3325 **76-8-403. Failure to keep and pay over public money.**

3326 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3327 (2) Except as otherwise provided in Subsection [76-8-402(4), a person] 76-8-402(3)(b),

3328 an actor commits failure to keep and pay over public money if the actor:

3329 (a) [who] receives, safekeeps, transfers, or disburses public money; and

3330 (b) [who] neglects or fails to keep and pay over the public money in the manner

3331 prescribed by law [is guilty of a felony of the third degree].

3332 (3) A violation of Subsection (2) is a third degree felony.

3333 Section 69. Section **76-8-405** is amended to read:

3334 **76-8-405. Failure to pay over a fine, forfeiture, or fee.**

3335 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3336 (2) [—Every public officer who] An actor commits failure to pay over a fine,

3337 forfeiture, or fee if the actor:

3338 (a) is a public officer;

3339 (b) receives any fine, forfeiture, or fee; and

3340 (c) refuses or neglects to pay [it] over the fine, forfeiture, or fee within the time

3341 prescribed by law [is guilty of a class B misdemeanor].

3342 (3) A violation of Subsection (2) is a class B misdemeanor.

3343 Section 70. Section **76-8-406** is amended to read:

3344 **76-8-406. Obstructing the collection of revenue.**

3345 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3346 (2) [—Every person who] An actor commits obstructing the collection of revenue if

the actor willfully obstructs or hinders [any] a public officer who empowered by law to collect revenue, taxes, or other sums of money from collecting [any] revenue, taxes, or other sums of money in which [the people of this state are interested, and which such officer is by law empowered to collect, is guilty of a class B misdemeanor] this state is interested.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 71. Section **76-8-407** is amended to read:

**76-8-407. Refusing to give accurate tax assessment information.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [Every person who] An actor commits refusing to give accurate tax assessment information if the actor:

(a) unlawfully refuses, upon demand, to give to [any] a county assessor or deputy county assessor a list of [his] the actor's property subject to taxation, or to swear to such list[;]; or

(b) [who] gives a false name, or fraudulently refuses to give [his] the actor's true name when demanded by the county assessor or deputy county assessor in the discharge of [his] the assessor's official duties[; is guilty of a class B misdemeanor].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 72. Section **76-8-408** is amended to read:

**76-8-408. Giving a false tax receipt or failing to give a receipt.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [Every person who] An actor commits giving a false tax receipt or failing to give a receipt if the actor:

(a) uses or gives [any] a receipt, except that prescribed by law, as evidence of the payment for [any] a tax or license of any kind[;]; or

(b) [who] receives payment for the tax or license without delivering the receipt prescribed by law[; is guilty of a class B misdemeanor].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 73. Section **76-8-409** is amended to read:

**76-8-409. Refusing to give a tax assessor or tax or license fee collector a list of employees.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[Every person who, when requested by the assessor or collector of taxes or license fees,]~~ An actor commits refusing to give a tax assessor or tax or license fee collector a list of employees if the actor refuses to give ~~[to]~~ the assessor or collector the name and residence of each ~~[person in his employ, or to give the assessor or collector access to the building or place of employment, is guilty of a class B misdemeanor.]~~ individual in the actor's employ when requested by the assessor or collector.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 74. Section **76-8-409.2** is enacted to read:

**76-8-409.2. Denying a tax assessor or tax or license fee collector access to a building or place of employment.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denying a tax assessor or tax or license fee collector access to a building or place of employment if the actor refuses to give the assessor or collector access to the building or place of employment when access is requested by the assessor or collector.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 75. Section **76-8-410** is amended to read:

**76-8-410. Doing business without a license.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[Every person who]~~ An actor commits doing business without a license if the actor commences or carries on [any] a business, trade, profession, or calling, for [the transaction or carrying on of] which a license is required by [any] law, or by [any] county, city, or town ordinance, without [taking out the] obtaining the required license [required by law or ordinance is guilty of a class B misdemeanor].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 76. Section **76-8-411** is amended to read:

**76-8-411. Trafficking in warrants.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[No state,]~~ An actor commits trafficking in warrants if the actor:

(a) is a state, county, city, town, or district officer; and

(b) ~~[shall, either directly or indirectly, contract for or purchase any]~~ directly or indirectly contracts for or purchases a warrant or order issued by the state, county, city, town,

or district of which ~~[he]~~ the actor is an officer, at any discount whatever upon the sum due on the warrant or order~~[-and, if any state, county, city, town, or district officer shall so contract for or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor].~~

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 77. Section **76-8-412** is amended to read:

**76-8-412. Stealing, destroying, or mutilating a public record by a custodian.**

(1) (a) As used in this section, "public record" means the following records filed or deposited in a public office:

(i) a record;

(ii) a map;

(iii) a book; or

(iv) a paper or proceeding of a court.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[Every]~~ An actor commits stealing, destroying, or mutilating a public record by a custodian if the actor:

(a) ~~[officer having the custody of any record, map, or book, or of any paper or proceedings of any court, filed or deposited in any public office, or placed in his hands for any purpose,]~~ is a government officer who has custody of a public record; and

(b) ~~[who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing, or secreting the whole or any part thereof, or who permits any other person so to do, is guilty of a felony of the third degree]~~ steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secrets the whole or a part of the public record or permits another individual to do so.

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

Section 78. Section **76-8-413** is amended to read:

**76-8-413. Stealing, destroying, or mutilating a public record by a noncustodian.**

(1) (a) As used in this section, "public record" means the same as that term is defined in Section 76-8-412.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) ~~[—Every person,]~~ An actor commits stealing, destroying, or mutilating a public record by a noncustodian if the actor:

3440 (a) does not have lawful custody of a public record; and

3441 (b) ~~[not an officer such as is referred to in the preceding section, who is guilty of any of~~

3442 ~~the acts specified in that section is guilty of a class A misdemeanor.]~~ steals, willfully destroys,

3443 mutilates, defaces, alters, falsifies, removes, or secrets the whole or a part of the public record

3444 or permits another individual to do so.

3445 (3) A violation of Subsection (2) is a class A misdemeanor.

3446 Section 79. Section **76-8-414** is amended to read:

3447 **76-8-414. Recording a false or forged instrument.**

3448 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3449 (2) ~~[Every person who]~~ An actor commits recording a false or forged instrument if the

3450 actor knowingly procures or offers [any] a false or forged instrument to be filed, registered, or

3451 recorded in [any] a public office, which instrument, if genuine, might be filed or registered or

3452 recorded under [any] a law of this state or of the United States~~[, is guilty of a felony of the third~~

3453 ~~degree].~~

3454 (3) A violation of Subsection (2) is a third degree felony.

3455 Section 80. Section **76-8-415** is amended to read:

3456 **76-8-415. Damaging or removing a monument of an official survey.**

3457 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3458 (2) ~~[Every person who]~~ An actor commits damaging or removing a monument of an

3459 official survey if the actor willfully injures, defaces, or removes [any] a signal, monument,

3460 building, or appurtenance thereto, placed, erected, or used by persons engaged in the United

3461 States or state survey~~[is guilty of a class B misdemeanor].~~

3462 (3) A violation of Subsection (2) is a class B misdemeanor.

3463 Section 81. Section **76-8-416** is amended to read:

3464 **76-8-416. Taking a toll or maintaining a road, bridge, or ferry without authority.**

3465 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3466 (2) ~~[Any person who]~~ An actor commits taking a toll or maintaining a road, bridge, or

3467 ferry without authority if the actor, without authority:

3468 (a) demands or receives compensation for the use of [any] a bridge or ferry~~;~~ or [who]

3469 (b) sets up or keeps [any] a road, bridge, [or] ferry, or constructed ford, for the purpose

3470 of receiving remuneration for [its] the road's, bridge's, ferry's, or constructed ford's use ~~[without~~

authority of law; and any person who refuses to pay on demand the compensation or fee authorized to be collected for use of a licensed toll road, bridge, ferry, or constructed ford after having used it is guilty of a class B misdemeanor].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 82. Section **76-8-416.2** is enacted to read:

**76-8-416.2. Refusal to pay a lawful toll.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusal to pay a lawful toll if the actor, after having used a licensed toll road, bridge, ferry, or constructed ford, refuses to pay on demand the compensation or fee authorized to be collected for use of the licensed toll road, bridge, ferry, or constructed ford.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 83. Section **76-8-417** is amended to read:

**76-8-417. Tampering with an official notice or proclamation.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [Every person who] An actor commits tampering with an official notice or proclamation if the actor intentionally defaces, obliterates, tears down, or destroys:

(a) [any] a copy, [or] transcript, or extract from or of [any] a law of the United States or of this state[;]; or

(b) [any] a proclamation, advertisement, or notice, set up [at any place] in this state by authority of [any] a law of the United States or of this state, or by order of [any] a court or of [any] a public officer, before the expiration of the time for which the [same] proclamation, advertisement, or notice was to remain set up[; is guilty of an infraction].

(3) A violation of Subsection (2) is an infraction.

Section 84. Section **76-8-418** is amended to read:

**76-8-418. Damaging a jail or other place of confinement.**

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

~~(a)~~ (i) "Child" means the same as that term is defined in Section 80-1-102.

~~(b)~~ (ii) "Detention facility" means the same as that term is defined in Section 80-1-102.

~~(c)~~ (iii) "Secure care facility" means the same as that term is defined in Section

3502 80-1-102.

3503 ~~[(d)]~~ (iv) "Shelter facility" means the same as that term is defined in Section 80-1-102.

3504 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3505 (2) ~~[A person who]~~ An actor commits damaging a jail or other place of confinement if  
 3506 the actor willfully and intentionally breaks down, pulls down, destroys, floods, or otherwise  
 3507 damages ~~[any]~~ a public jail or other place of confinement, including a detention facility, a  
 3508 shelter facility, or a secure care facility~~[, is guilty of a felony of the third degree].~~

3509 (3) A violation of Subsection (2) is a third degree felony.

3510 ~~[(3)]~~ (4) This section is applicable to a child who willfully and intentionally commits  
 3511 an offense against a public jail, a detention facility, a shelter facility, or a secure care facility.

3512 Section 85. Section **76-8-419** is amended to read:

3513 **76-8-419. Damaging a highway or bridge.**

3514 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3515 (2) ~~[Every person who]~~ An actor commits damaging a highway or bridge if the actor  
 3516 intentionally, knowingly, or recklessly digs up, removes, displaces, breaks, or otherwise  
 3517 damages or destroys ~~[any public highway, or any]~~ a public highway or private way laid out by  
 3518 authority of law, or ~~[any]~~ a bridge upon the highway or private way ~~[is guilty of a class A~~  
 3519 ~~misdemeanor].~~

3520 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a third degree  
 3521 felony.

3522 ~~[(2)]~~ (4) If the violation of this section constitutes an offense subject to a greater  
 3523 penalty under another provision of Title 76, Utah Criminal Code, than is provided under this  
 3524 section, this section does not prohibit the prosecution and sentencing for the offense subject to  
 3525 a greater penalty.

3526 Section 86. Section **76-8-420** is amended to read:

3527 **76-8-420. Removing or damaging a road sign.**

3528 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.~~—~~

3529 ~~Every person who intentionally or knowingly removes or injures any milepost or milestone or~~  
 3530 ~~guidepost or any inscription on them, erected upon any highway, is guilty of a class B~~  
 3531 ~~misdemeanor.]~~

3532 (2) An actor commits removing or damaging a road sign if the actor intentionally or

3533 knowingly removes or damages:

3534 (a) a milepost, milestone, or guidepost erected on a highway; or

3535 (b) an inscription on a milepost, milestone, or guidepost.

3536 (3) A violation of Subsection (2) is a class B misdemeanor.

3537 Section 87. Section **76-8-501** is amended to read:

3538 **76-8-501. Definitions.**

3539 As used in this part:

3540 (1) "False statement" includes a false unsworn declaration~~[, with "unsworn declaration"~~  
3541 ~~being defined in Section 78B-18a-102].~~

3542 (2) "Material" means capable of affecting the course or outcome of an official  
3543 proceeding, unless the ~~[person]~~ individual who made the statement or provided the information  
3544 retracts the statement or information before the earlier of:

3545 (a) the end of the official proceeding in which the statement was made or the  
3546 information was provided;

3547 (b) when it becomes manifest that the false or misleading nature of the statement or  
3548 information has been or will be exposed; or

3549 (c) when the statement or information substantially affects the proceeding.

3550 (3) "Official proceeding" means:

3551 (a) ~~[any]~~ a proceeding before:

3552 (i) a legislative, judicial, administrative, or other governmental body or official  
3553 authorized by law to take evidence under oath or affirmation;

3554 (ii) a notary; or

3555 (iii) ~~[a person that]~~ an individual who takes evidence in connection with a proceeding  
3556 described in Subsection (3)(a)(i);

3557 (b) ~~[any]~~ a civil or administrative action, trial, examination under oath, administrative  
3558 proceeding, or other civil or administrative adjudicative process; or

3559 (c) an investigation or audit conducted by:

3560 (i) the Legislature, or a house, committee, subcommittee, or task force of the  
3561 Legislature; or

3562 (ii) an employee or independent contractor of an entity described in Subsection  
3563 (3)(c)(i), at or under the direction of an entity described in Subsection (3)(c)(i).

3564 (4) "Unsworn declaration" means the same as that term is defined in Section  
 3565 78B-18a-102.

3566 Section 88. Section **76-8-502** is amended to read:

3567 **76-8-502. Making a false or inconsistent material statement.**

3568 ~~[A person is guilty of a felony of the second degree if in any official proceeding:]~~

3569 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
 3570 section.

3571 (2) ~~[He]~~ An actor commits making a false or inconsistent material statement if the  
 3572 actor:

3573 (a) makes a false material statement under oath or affirmation or swears or affirms the  
 3574 truth of a material statement previously made and [he] the actor does not believe the statement  
 3575 to be true; or

3576 ~~[(2)]~~ (b) ~~[He]~~ makes inconsistent material statements under oath or affirmation, both  
 3577 within the period of limitations, one of which is false and [not believed by him] the actor does  
 3578 not believe to be true.

3579 (3) A violation of Subsection (2) is a second degree felony.

3580 (4) It is not a defense to prosecution under this section that the oath or affirmation was  
 3581 administered or taken in an irregular manner.

3582 (5) (a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's  
 3583 statement may not be established solely through contradiction by the testimony of a single  
 3584 witness.

3585 (b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or  
 3586 proved which of the statements are false but only that one or the other statement is false and  
 3587 not believed by the actor to be true.

3588 Section 89. Section **76-8-503** is amended to read:

3589 **76-8-503. Making a false or inconsistent statement.**

3590 (1) ~~[Except as provided in Subsection (2), a person is guilty of a class B misdemeanor~~  
 3591 ~~if:]~~ Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

3592 ~~[(a)]~~ (2) ~~[the person]~~ Except as provided in Subsection (6), an actor commits making a  
 3593 false or inconsistent statement if the actor:

3594 (a) makes a false statement under oath or affirmation or swears or affirms the truth of

3595 the statement previously made and the [person] actor does not believe the statement to be true  
3596 if:

3597 (i) the falsification occurs in an official proceeding, or is made with a purpose to  
3598 mislead a public servant in performing the public servant's official functions; or

3599 (ii) the statement is one that is authorized by law to be sworn or affirmed before a  
3600 notary or other [person] individual authorized to administer oaths; or

3601 (b) [the person] makes inconsistent statements under oath or affirmation, both within  
3602 the period of limitations, one of which is false and not believed by the [person] actor to be true.

3603 (3) A violation of Subsection (2) is a class B misdemeanor.

3604 (4) (a) It is not a defense to prosecution under this section that the oath or affirmation  
3605 was administered or taken in an irregular manner.

3606 (b) It is a defense to prosecution under this section that the actor retracted the false  
3607 statement before it became manifest that the falsity of the statement had been or would be  
3608 exposed.

3609 (5) (a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's  
3610 statement may not be established solely through contradiction by the testimony of a single  
3611 witness.

3612 (b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or  
3613 proved which of the statements are false but only that one or the other statement is false and  
3614 not believed by the actor to be true.

3615 [(2)] (6) Subsection [(1)] (2) does not include obstructing a legislative proceeding, as  
3616 described in Section 36-12-9.5.

3617 [(3)] A person is not guilty under this section if the person retracts the falsification  
3618 before it becomes manifest that the falsification has been or will be exposed.]

3619 Section 90. Section **76-8-504** is amended to read:

3620 **76-8-504. Making a written false statement.**

3621 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3622 section.

3623 (2) An actor commits [the offense of] making a written false statement if:

3624 (a) the actor makes a statement that the actor does not believe to be true on or under a  
3625 form bearing a notification authorized by law to the effect that [false statements made therein

3626 ~~are punishable]~~ a false statement made therein is punishable; or

3627 (b) with intent to deceive a public servant in the performance of the public servant's  
3628 official function, the actor:

3629 (i) makes a written false statement that the actor does not believe to be true;

3630 (ii) knowingly creates a false impression in a written application for a pecuniary or  
3631 other benefit by omitting information necessary to prevent a statement in the application from  
3632 being misleading;

3633 (iii) submits or invites reliance on a writing that the actor knows to be lacking in  
3634 authenticity; or

3635 (iv) submits or invites reliance on a sample, specimen, map, boundary mark, or other  
3636 object that the actor knows to be false.

3637 ~~[(2)] (3)~~ (a) Except as provided in Subsection ~~[(2)(b);]~~ (3)(b), a violation of Subsection  
3638 ~~[(1)] (2)~~ is a class B misdemeanor.

3639 (b) A violation of Subsection ~~[(1)] (2)~~ is a third degree felony if the false statement is  
3640 on a financial declaration described in Section 77-38b-204.

3641 ~~[(3) It is not an offense under this section if the actor retracts the falsification before it  
3642 becomes manifest that the falsification was or would be exposed.]~~

3643 (4) (a) An actor does not violate this section if the actor retracted the false statement  
3644 before it became manifest that the falsity of the statement had been or would be exposed.

3645 (b) It is not a defense to prosecution under this section that, if applicable, an oath or  
3646 affirmation was administered or taken in an irregular manner.

3647 Section 91. Section **76-8-504.5** is amended to read:

3648 **76-8-504.5. Making a false statement to be used in a preliminary hearing.**

3649 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3650 section.

3651 (2) [A person is guilty of a class A misdemeanor if the person] An actor commits  
3652 making a false statement to be used in a preliminary hearing if the actor makes a false  
3653 statement that:

3654 (a) ~~[which the person]~~ the actor does not believe to be true;

3655 (b) ~~[that the person]~~ the actor has reason to believe will be used in a preliminary  
3656 hearing; and

(c) the actor made after having been notified either verbally or in writing that:

(i) the statement may be used in a preliminary hearing before a magistrate or a judge;

and

(ii) if the ~~[person]~~ actor makes a false statement after having received this notification,

~~[he]~~ the actor is subject to a criminal penalty.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense to prosecution under this section that, if applicable, an oath or affirmation was administered or taken in an irregular manner.

~~[(2)]~~ (5) [Notification] A notification under Subsection ~~[(1)]~~ (2)(c) is sufficient if ~~[it]~~ the notification is verbal or written and is in substantially the following form: "You are notified that statements you are about to make may be presented to a magistrate or a judge in lieu of your sworn testimony at a preliminary examination. Any false statement you make and that you do not believe to be true may subject you to criminal punishment as a class A misdemeanor."

Section 92. Section **76-8-504.6** is amended to read:

**76-8-504.6. Providing false or misleading information.**

(1) (a) As used in this section, "officer of the court" means:

(i) a prosecutor;

(ii) a judge;

(iii) a court clerk;

(iv) an interpreter;

(v) a presentence investigator;

(vi) a probation officer;

(vii) a parole officer; or

(viii) an individual reasonably believed to be gathering information for a criminal proceeding.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [A person is guilty of a class B misdemeanor if the person,] An actor commits providing false or misleading information if the actor, not under oath or affirmation, intentionally or knowingly provides false or misleading material information to:

3688 (a) an officer of the court for the purpose of influencing a criminal proceeding; or  
3689 (b) the Bureau of Criminal Identification for the purpose of obtaining a certificate of  
3690 eligibility for:  
3691 (i) expungement; or  
3692 (ii) removal of the person's name from the White Collar Crime Registry created in Title  
3693 77, Chapter 42, Utah White Collar Crime Offender Registry.

3694 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B  
3695 misdemeanor.

3696 [~~(2) For the purposes of this section "officer of the court" means:~~]  
3697 [~~(a) prosecutor;~~]  
3698 [~~(b) judge;~~]  
3699 [~~(c) court clerk;~~]  
3700 [~~(d) interpreter;~~]  
3701 [~~(e) presentence investigator;~~]  
3702 [~~(f) probation officer;~~]  
3703 [~~(g) parole officer; and~~]  
3704 [~~(h) any other person reasonably believed to be gathering information for a criminal~~  
3705 ~~proceeding.~~]

3706 [~~(3)~~] (4) This section does not apply under circumstances amounting to Section  
3707 76-8-306 or any other provision of this code carrying a greater penalty.

3708 Section 93. Section 76-8-506 is amended to read:

3709 **76-8-506. Providing false information to a law enforcement officer, government**  
3710 **agency, or specified professional.**

3711 [~~A person is guilty of a class B misdemeanor if he:~~]

3712 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3713 section.

3714 (2) An actor commits providing false information to a law enforcement officer,  
3715 government agency, or specified professional if the actor knowingly gives or causes to be  
3716 given:

3717 (a) false information to [any] a peace officer or [any] state or local government agency  
3718 or personnel with a purpose of inducing the recipient of the information to believe that another

3719 person has committed an offense;  
3720 ~~[(2)] (b) [knowingly gives or causes to be given to any]~~ information concerning the  
3721 commission of an offense to a peace officer, ~~[any]~~ a state or local government agency or  
3722 personnel, or to ~~[any person]~~ an individual licensed in this state to practice social work,  
3723 psychology, or marriage and family therapy, ~~[information concerning the commission of an~~  
3724 ~~offense;]~~ knowing that the offense did not occur or knowing that ~~[he]~~ the actor has no  
3725 information relating to the offense or danger; or

3726 ~~[(3)] (c) [knowingly gives or causes to be given]~~ false information to ~~[any]~~ a state or  
3727 local government agency or personnel with a purpose of inducing a change in the ~~[person's]~~  
3728 actor's licensing or certification status or the licensing or certification status of another person.

3729 (3) A violation of Subsection (2) is a class B misdemeanor.

3730 Section 94. Section **76-8-507** is amended to read:

3731 **76-8-507. Providing false personal information to a peace officer.**

3732 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3733 section.

3734 (2) [A person commits a class C misdemeanor if;] An actor commits providing false  
3735 personal information to a peace officer if the actor knowingly:

3736 (a) with intent of misleading a peace officer as to the ~~[person's]~~ actor's identity, birth  
3737 date, or place of residence, ~~[the person knowingly]~~ gives a false name, birth date, or address to  
3738 [a] the peace officer in the lawful discharge of the peace officer's official duties~~[-]; or~~

3739 ~~[(2)] (b) [A person commits a class A misdemeanor if;]~~ with the intent of leading a  
3740 peace officer to believe that the ~~[person]~~ actor is another actual ~~[person, he]~~ individual, gives  
3741 the name, birth date, or address of another ~~[person to a]~~ individual to the peace officer acting in  
3742 the lawful discharge of the peace officer's official duties.

3743 (3) (a) A violation of Subsection (2)(a) is a class C misdemeanor.

3744 (b) A violation of Subsection (2)(b) is a class A misdemeanor.

3745 Section 95. Section **76-8-508** is amended to read:

3746 **76-8-508. Tampering with a witness.**

3747 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3748 section.

3749 (2) [A person is guilty of the third degree felony of] An actor commits tampering with

3750 a witness if[;] the actor:

3751 (a) [believing]

3752 (i) believes that an official proceeding or investigation is pending or about to be  
3753 instituted[;] or

3754 (ii) ~~[with the intent]~~ intends to prevent an official proceeding or investigation[;] and

3755 (b) ~~[he]~~ attempts to induce or otherwise cause another ~~[person]~~ individual to:

3756 ~~[(a)]~~ (i) testify or inform falsely;

3757 ~~[(b)]~~ (ii) withhold ~~[any]~~ testimony, information, a document, or an item;

3758 ~~[(c)]~~ (iii) elude legal process summoning ~~[him]~~ the individual to provide evidence; or

3759 ~~[(d)]~~ (iv) absent ~~[himself]~~ the individual from ~~[any]~~ a proceeding or investigation to  
3760 which ~~[he]~~ the individual has been summoned.

3761 ~~[(2) A person is guilty of the third degree felony of soliciting or receiving a bribe as a~~  
3762 ~~witness if he solicits, accepts, or agrees to accept any benefit in consideration of his doing any~~  
3763 ~~of the acts specified under Subsection (1).]~~

3764 (3) A violation of Subsection (2) is a third degree felony.

3765 ~~[(3)]~~ (4) ~~[The offense of tampering with a witness or soliciting or receiving a bribe]~~ A  
3766 violation under this section does not merge with ~~[any other]~~ another substantive offense  
3767 committed in the course of ~~[committing any offense under]~~ violating this section.

3768 Section 96. Section **76-8-508.3** is amended to read:

3769 **76-8-508.3. Retaliation against a witness, victim, or informant.**

3770 (1) (a) As used in this section[;],

3771 ~~[(a) A person is "closely associated"]~~ "an individual closely associated with a witness,  
3772 victim, or informant ~~[if the person]~~ " means an individual who is a member of the witness',  
3773 victim's, or informant's family, has a close personal or business relationship with the witness or  
3774 victim, or resides in the same household with the witness, victim, or informant.

3775 ~~[(b) "Harm" means physical, emotional, or economic injury or damage to a person or to~~  
3776 ~~his property, reputation, or business interests.]~~

3777 (b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3778 section.

3779 ~~[(2) A person is guilty of the third degree felony of retaliation against a witness, victim,~~  
3780 ~~or informant if, believing that an official proceeding or investigation is pending, is about to be~~

3781 ~~instituted, or has been concluded, he:]~~  
3782 ~~[(a) (i) makes a threat of harm; or]~~  
3783 ~~[(ii) causes harm; and]~~  
3784 ~~[(b) directs the threat or action:]~~  
3785 ~~[(i) against a witness or an informant regarding any official proceeding, a victim of any~~  
3786 ~~crime, or any person closely associated with a witness, victim, or informant; and]~~  
3787 ~~[(ii) as retaliation or retribution against the witness, victim, or informant].~~  
3788 (2) An actor commits retaliation against a witness, victim, or informant if the actor:  
3789 (a) believes that an official proceeding or investigation is pending, is about to be  
3790 brought, or has been concluded;  
3791 (b) makes a threat of harm or causes harm; and  
3792 (c) directs the threat or action causing harm as retaliation or retribution against a  
3793 witness or an informant involved in an official proceeding, a victim of a crime, or an individual  
3794 closely associated with a witness, victim, or informant.  
3795 (3) A violation of Subsection (2) is a third degree felony.  
3796 ~~[(3) This section does not prohibit any person from seeking any legal redress to which~~  
3797 ~~the person is otherwise entitled.]~~  
3798 ~~(4) [The offense of retaliation against a witness, victim, or informant]~~ A violation  
3799 under this section does not merge with [any other] another substantive offense committed in  
3800 the course of [committing any offense under] violating this section.  
3801 (5) This section does not prohibit an individual from seeking other legal redress to  
3802 which the individual is otherwise entitled.  
3803 Section 97. Section **76-8-508.5** is amended to read:  
3804 **76-8-508.5. Tampering or retaliating against a juror.**  
3805 (1) (a) As used in this section, "juror" means ~~[a person]~~ an individual:  
3806 ~~[(a)] (i)~~ (i) summoned for jury duty; or  
3807 ~~[(b)] (ii)~~ (ii) serving as or having served as a juror or alternate juror in any court or as a  
3808 juror on any grand jury of the state.  
3809 (b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
3810 section.  
3811 (2) ~~[A person is guilty of tampering with a juror if he]~~ An actor commits tampering or

3812 retaliating against a juror if the actor:

3813 (a) attempts to or actually influences a juror in the discharge of the juror's service by:

3814 ~~[(a)]~~ (i) communicating with the juror by any means, directly or indirectly, except for

3815 ~~[attorneys]~~ an attorney in the lawful discharge of ~~[their]~~ the attorney's duties in open court;

3816 ~~[(b)]~~ (ii) offering, conferring, or agreeing to confer any benefit upon the juror; or

3817 ~~[(c)]~~ (iii) communicating to the juror a threat that a reasonable person would believe to

3818 be a threat to injure:

3819 ~~[(i)]~~ (A) the juror's person or property; or

3820 ~~[(ii)]~~ (B) the person or property of ~~[any other person]~~ another individual in whose

3821 welfare the juror is interested~~[-]; or~~

3822 ~~[(3)]~~ (b) ~~[A person is guilty of tampering with a juror if he commits any]~~ commits an

3823 unlawful act in retaliation for ~~[anything done]~~ an action taken by the juror in the discharge of

3824 the juror's service:

3825 ~~[(a)]~~ (i) to the juror's person or property; or

3826 ~~[(b)]~~ (ii) to the person or property of ~~[any other person]~~ another individual in whose

3827 welfare the juror is interested.

3828 ~~[(4)]~~ (3) ~~[Tampering with a juror]~~ A violation of Subsection (2) is a third degree

3829 felony.

3830 Section 98. Section **76-8-508.7** is enacted to read:

3831 **76-8-508.7. Receiving or soliciting a bribe as a witness.**

3832 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this

3833 section.

3834 (2) An actor commits receiving or soliciting a bribe as a witness if the actor:

3835 (a) believes that an official proceeding or investigation is pending or about to be

3836 instituted; and

3837 (b) solicits, accepts, or agrees to accept a benefit in consideration of the actor:

3838 (i) testifying or informing falsely;

3839 (ii) withholding testimony, information, a document, or an item;

3840 (iii) eluding legal process summoning the actor to provide evidence; or

3841 (iv) absenting the actor from a proceeding or investigation to which the actor has been

3842 summoned.

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

(4) A violation under this section does not merge with another substantive offense committed in the course of violating this section.

Section 99. Section **76-8-509** is amended to read:

**76-8-509. Extortion or bribery to dismiss a criminal proceeding.**

(1) (a) As used in this section, "victim" includes a child or other individual under the care or custody of a parent or guardian.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) ~~[A person is guilty of a felony of the second degree if]~~ An actor commits extortion or bribery to dismiss a criminal proceeding if the actor attempts to induce an alleged victim of a crime to take an action to secure the dismissal or to prevent the filing of a criminal complaint, indictment, or information by:

(a) ~~[by]~~ the use of force; or

(b) ~~[by any threat which would constitute a means of committing the crime of theft by extortion under this code, if the threat were employed to obtain property, or by promise of any reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the dismissal of or to prevent the filing of a criminal complaint, indictment, or information] a threat that would constitute a means of committing the offense of theft by extortion under Section 76-6-406 if the threat were employed to obtain property or by promise of a reward or pecuniary benefit.~~

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

~~[(2) "Victim," as used in this section, includes a child or other person under the care or custody of a parent or guardian.]~~

Section 100. Section **76-8-510.5** is amended to read:

**76-8-510.5. Tampering with evidence.**

(1) (a) As used in this section, "thing or item" includes any document, record book, paper, file, electronic compilation, or other evidence.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) ~~[A person is guilty of]~~ An actor commits tampering with evidence if[;] the actor:

3874 (a) (i) ~~[believing]~~ believes that an official proceeding or investigation is pending or  
 3875 about to be instituted~~[;]~~; or

3876 (ii) ~~[with the intent]~~ intends to prevent an official proceeding or investigation or to  
 3877 prevent the production of ~~[any]~~ a thing or item which reasonably would be anticipated to be  
 3878 evidence in the official proceeding or investigation~~[;]~~; and

3879 (b) ~~[the person]~~ knowingly or intentionally:

3880 ~~[(a)]~~ (i) alters, destroys, conceals, or removes ~~[any]~~ a thing or item with the purpose of  
 3881 impairing the veracity or availability of the thing or item in the proceeding or investigation; or

3882 ~~[(b)]~~ (ii) makes, presents, or uses ~~[any]~~ a thing or item which the ~~[person]~~ actor knows  
 3883 to be false with the purpose of deceiving a public servant or ~~[any]~~ other party who is or may be  
 3884 engaged in the proceeding or investigation.

3885 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class  
 3886 A misdemeanor.

3887 (b) A violation of Subsection (2) is a third degree felony if the offense is committed in  
 3888 conjunction with an official proceeding.

3889 ~~[(3)]~~ (4) Subsection (2) does not apply to any offense that amounts to a violation of  
 3890 Section 76-8-306.

3891 ~~[(4) (a) Tampering with evidence is a third degree felony if the offense is committed in~~  
 3892 ~~conjunction with an official proceeding.]~~

3893 ~~[(b) Any violation of this section except under Subsection (4)(a) is a class A~~  
 3894 ~~misdemeanor.]~~

3895 Section 101. Section **76-8-511** is amended to read:

3896 **76-8-511. Falsification or alteration of a government record.**

3897 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this  
 3898 section.

3899 (2) ~~[A person is guilty of a class B misdemeanor]~~ An actor commits falsification or  
 3900 alteration of a government record if, under circumstances not amounting to an offense subject  
 3901 to a greater penalty under Title 76, Chapter 6, Part 5, Fraud, [the person] the actor:

3902 ~~[(1)]~~ (a) knowingly makes a false entry in or false alteration of anything belonging to,  
 3903 received, or kept by the government for information or record, or required by law to be kept for  
 3904 information of the government;

[~~(2)~~] (b) presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or [~~records~~] record referred to in Subsection [~~(1)~~] (2)(a); or

[~~(3)~~] (c) intentionally destroys, conceals, or otherwise impairs the verity or availability of the information or [~~records~~] record, knowing that the destruction, concealment, or impairment is unlawful.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B misdemeanor.

Section 102. Section **76-8-512** is amended to read:

**76-8-512. Impersonation of an officer.**

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) ~~[A person is guilty of a class B misdemeanor who:]~~ An actor commits impersonation of an officer if the actor:

[~~(1)~~] (a) impersonates a public servant or a peace officer with intent to deceive another individual or with intent to induce another individual to submit to [~~his~~] the actor's pretended official authority or to rely upon [~~his~~] the actor's pretended official act;

[~~(2)~~] (b) falsely states [~~he~~] that the actor is a public servant or a peace officer with intent to deceive another individual or to induce another individual to submit to [~~his~~] the actor's pretended official authority or to rely upon [~~his~~] the actor's pretended official act; or

[~~(3)~~] (c) displays or possesses without authority [~~any~~] a badge, identification card, other form of identification, [~~any~~] a restraint device, [~~or~~] the uniform of [~~any~~] a state or local governmental entity, or a reasonable facsimile of any of these items, with the intent to deceive another individual or with the intent to induce another individual to submit to [~~his~~] the actor's pretended official authority or to rely upon [~~his~~] the actor's pretended official act.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 103. Section **76-8-513** is amended to read:

**76-8-513. Sending a false judicial or official notice.**

~~[A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction but which in its~~

~~format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal, or printed form of a federal, state, or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.]~~

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

(i) "Official document" means:

(A) a summons, complaint, court order, or process; or

(B) an insignia, seal, or printed form of a federal, state, or local governmental entity or an instrumentality of a federal, state, or local governmental entity.

(ii) (A) "False official document" means a document that has the appearance or format of an official document but that has not been sanctioned by the relevant governmental entity.

(B) "False official document" includes a document calculated to induce an individual to believe that the document is an official document of the relevant governmental entity.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits sending a false judicial or official notice if the actor knowingly sends, mails, or delivers to an individual a false official document with the purpose to procure the compliance of the individual.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 104. Section **76-8-515** is amended to read:

**76-8-515. Impersonation of a utility officer or employee.**

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

(i) "Critical infrastructure facility" means the same as that term is defined in Section 76-6-106.3.

(ii) "Sabotage" means the same as that term is defined in Section 76-8-901.

(iii) "Terrorism" means the same as that term is defined in Section 53-2a-102.

(iv) "Utility" means a private or governmental entity operating a critical infrastructure facility.

(b) Terms defined [~~in Section 76-1-101.5 apply to this section~~] in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits impersonation of a utility officer or employee if the actor, without authority from a utility:

(a) intends to lead an individual to believe that the actor is acting on behalf of the utility in an official capacity; and

(b) attempts to act on behalf of the utility.

(3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) ~~[Notwithstanding Subsection (3)(a), a]~~ A violation of Subsection (2) is a third degree felony if the actor, while taking the action described in Subsection (2), intends to commit an act of terrorism or sabotage.

Section 105. Section **76-8-601** is amended to read:

**76-8-601. Wrongful commencement of an action in justice court.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits wrongful commencement of an action in justice court if the actor:

(a) is:

(i) a party to a suit or a proceeding; or

(ii) an agent or attorney for a party to a suit or proceeding; and

(b) [Any party to any suit or proceeding, and any attorney or agent for the party, who knowingly commences, prosecutes, or maintains any action, suit, or proceeding in any justice court other than as provided in Sections 78A-7-105 and 78A-7-106, is guilty of a class B misdemeanor.] except as provided in Section 78A-7-105 or 78A-7-106, knowingly commences, prosecutes, or maintains an action, suit, or proceeding in a justice court.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 106. Section **76-8-602** is amended to read:

**76-8-602. Wrongfully conferring jurisdiction upon a justice court.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [Any person who binds himself] An actor commits wrongfully conferring jurisdiction upon a justice court if the actor, for the purpose of conferring jurisdiction of a cause upon a justice court in a precinct or city that would be without jurisdiction except for the liability of the joint obligor, binds the actor's self, [or] voluntarily becomes liable jointly or jointly and severally with [any other person, for the purpose of conferring jurisdiction of any cause upon any justice court judge in any precinct or city that would be without jurisdiction

3998 ~~except for the liability of the joint obligor,] another person, or induces a person to assume a~~  
 3999 ~~liability.~~

4000 (3) ~~[and any person who induces a person to assume the liability for the purpose of~~  
 4001 ~~conferring jurisdiction upon the justice court judge, is guilty of] A violation of Subsection (2)~~  
 4002 ~~is a class B misdemeanor.~~

4003 Section 107. Section **76-8-603** is amended to read:

4004 **76-8-603. Wrongfully issued writ of attachment by a justice court judge.**

4005 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4006 (2) ~~[It is unlawful for any]~~ An actor commits wrongfully issued writ of attachment by a  
 4007 justice court judge if the actor:

4008 (a) is a justice court judge; and

4009 (b) ~~[to issue any]~~ issues a writ of attachment~~[, and for any party, agent, or attorney of~~  
 4010 ~~the party, to advise, induce, or procure the issuance thereof,] in [any] an action, suit, or~~  
 4011 ~~proceeding;~~

4012 (i) before the affidavit is filed~~;~~; or

4013 (ii) ~~[where]~~ in which the affidavit filed does not conform substantially with the  
 4014 requirements of Rule 64C of the Utah Rules of Civil Procedure.

4015 (3) ~~[Any person violating any of the provisions of this section is guilty of] A violation~~  
 4016 ~~of Subsection (2) is a class B misdemeanor.~~

4017 (4) In addition to the penalty under Subsection (3), an actor is ~~[and shall be]~~ liable to  
 4018 the person whose property, credits, money, or earnings are attached for:

4019 (a) double the value of the attached property~~;~~;

4020 (b) ~~[together with]~~ all costs paid by ~~[him,]~~ the person; and

4021 (c) all damages incurred in the attachment proceedings.

4022 Section 108. Section **76-8-604** is enacted to read:

4023 **76-8-604. Wrongful inducement to receive writ of attachment.**

4024 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4025 (2) An actor commits wrongful inducement to receive writ of attachment if the actor:

4026 (a) is:

4027 (i) a party to an action, suit, or proceeding;

4028 (ii) an agent of a party to an action, suit, or proceeding; or

(iii) an attorney of a party to an action, suit, or proceeding; and

(b) advises, induces, or procures the issuance of a writ of attachment in the action, suit or proceeding;

(i) before the affidavit is filed; or

(ii) in which the affidavit filed does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) In addition to the penalty under Subsection (3), an actor is liable to the person whose property, credits, money, or earnings are attached for:

(a) double the value of the attached property;

(b) all costs paid by the person; and

(c) all damages incurred in the attachment proceedings.

Section 109. Section **76-8-703** is amended to read:

**76-8-703. Criminal trespass upon an institution of higher education.**

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

(i) "Chief administrative officer" means the same as that term is defined in Section 53B-20-107.

(ii) "Enters" means intrusion of the entire body.

(iii) "Institution of higher education" means the same as that term is defined in Section 53B-20-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits criminal trespass upon an institution of higher education if the actor enters or remains on property that is owned, operated, or controlled by an institution of higher education:

(a) after being ordered to leave by the chief administrative officer; or

(b) without authorization if notice against entry or remaining has been given by:

(i) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution of higher education;

(ii) the posting of signs reasonably likely to come to the attention of a trespasser;

(iii) fencing or other enclosure obviously designed to exclude a trespasser; or

(iv) a current order of suspension or expulsion.

4060 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class  
4061 B misdemeanor.

4062 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously  
4063 been convicted two or more times of a violation of Subsection (2).

4064 ~~[(a) A chief administrative officer may order a person to leave property that is owned,~~  
4065 ~~operated, or controlled by an institution of higher education if the person:]~~

4066 ~~[(i) acts or if the chief administrative officer has reasonable cause to believe that the~~  
4067 ~~person intends to act to:]~~

4068 ~~[(A) cause injury to a person;]~~

4069 ~~[(B) cause damage to property;]~~

4070 ~~[(C) commit a crime;]~~

4071 ~~[(D) interfere with the peaceful conduct of the activities of the institution;]~~

4072 ~~[(E) violate any rule or regulation of the institution if that rule or regulation is not in~~  
4073 ~~conflict with state law; or]~~

4074 ~~[(F) disrupt the institution, its pupils, or the institution's activities; or]~~

4075 ~~[(ii) is reckless as to whether the person's actions will cause fear for the safety of~~  
4076 ~~another.]~~

4077 ~~[(b) A person is guilty of criminal trespass upon an institution of higher education if~~  
4078 ~~the person enters or remains on property that is owned, operated, or controlled by an institution~~  
4079 ~~of higher education after being ordered to leave under Subsection (1)(a).]~~

4080 ~~[(c)]~~ (4) The mere carrying or possession of a firearm on the campus of a state  
4081 institution of higher education, as defined in Section 53B-3-102, does not warrant an order to  
4082 leave under Subsection ~~[(1)(a) if the person]~~ (2)(a) if the individual carrying or possessing the  
4083 firearm is otherwise complying with all state laws regulating the possession and use of a  
4084 firearm.

4085 ~~[(2) A person is guilty of criminal trespass upon an institution of higher education if~~  
4086 ~~the person enters or remains without authorization upon property that is owned, operated, or~~  
4087 ~~controlled by an institution of higher education if notice against entry or remaining has been~~  
4088 ~~given by:]~~

4089 ~~[(a) personal communication to the person by the chief administrative officer or a~~  
4090 ~~person with apparent authority to act for the institution;]~~

~~[(b) the posting of signs reasonably likely to come to the attention of trespassers;]~~

~~[(c) fencing or other enclosure obviously designed to exclude trespassers; or]~~

~~[(d) a current order of suspension or expulsion.]~~

~~[(3)] (5)~~ If an employee or student of an institution of higher education is ordered to leave under Subsection ~~[(1)] (2)(a)~~ or receives a notice against entry or remaining under Subsection ~~[(2)] (2)(b)~~, the institution of higher education shall afford the employee or student the process required by the institution of higher education's rules and regulations.

~~[(4) A person who violates this section shall be punished as provided in Section 76-8-717.]~~

Section 110. Section **76-8-705** is amended to read:

**76-8-705. Willful interference with lawful activities of students or faculty.**

(1) (a) As used in this section, "institution" means the same as that term is defined in Section 53B-20-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [A person is guilty of a class C misdemeanor if,] An actor commits willful interference with lawful activities of students or faculty if the actor, while on property that is owned, operated, or controlled by an institution [of higher education, the person], willfully:

~~[(1)] (a)~~ denies to a student, school official, employee, or invitee lawful:

~~[(a)] (i)~~ freedom of movement;

~~[(b)] (ii)~~ use of the property or facilities; or

~~[(c)] (iii)~~ ingress or egress to the institution's physical facilities;

~~[(2)] (b)~~ impedes a faculty or staff member of the institution in the lawful performance of the member's duties; or

~~[(3)] (c)~~ impedes a student of the institution in the lawful pursuit of the student's educational activities.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 111. Section **76-8-802** is amended to read:

**76-8-802. Destruction of property to interfere with preparations for defense or war.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [Whoever] An actor commits destruction of property to interfere with preparations

4122 for defense or war if the actor:

4123           (a) intentionally destroys, impairs, injures, interferes, or tampers with real or personal  
4124 property; and

4125           (b) ~~[with]~~ has reasonable grounds to believe that the ~~[act]~~ actor's conduct under  
4126 Subsection (2)(a) will hinder, delay, or interfere with the preparation of the United States ~~[or of~~  
4127 ~~any of the states]~~ government or of a state government for defense or for war, or with the  
4128 prosecution of war by the United States~~[, shall be guilty of a felony of the second degree]~~  
4129 government.

4130           (3) A violation of Subsection (2) is a second degree felony.

4131           (4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's  
4132 conduct under Subsection (2) or the name of the actor may not be made public.

4133           Section 112. Section **76-8-803** is amended to read:

4134           **76-8-803. Causing or omitting to note defects in articles used in preparation for**  
4135 **defense or war.**

4136           (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4137           (2) ~~[Whoever]~~ An actor commits causing or omitting to note defects in articles used in  
4138 preparation for defense or war if the actor:

4139           (a) intentionally makes or causes to be made or omits to note on inspection ~~[any]~~ a  
4140 defect in [any] an article or thing; and

4141           (b) ~~[with]~~ has reasonable grounds to believe that the article or thing is intended to be  
4142 used in connection with the preparation of the United States ~~[or any of the states]~~ government  
4143 or of a state government for defense or for war, or for the prosecution of war by the United  
4144 States~~[, or that the article or thing is one of a number of similar articles or things, some of~~  
4145 ~~which are intended so to be used, shall be guilty of a felony of the third degree.]~~ government.

4146           (3) A violation of Subsection (2) is a third degree felony.

4147           (4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's  
4148 conduct under Subsection (2) or the name of the actor may not be made public.

4149           Section 113. Section **76-8-804** is amended to read:

4150           **76-8-804. Attempts to commit crimes of sabotage.**

4151           ~~[Whoever attempts to commit any of the crimes defined by this part shall be punishable~~  
4152 ~~for the attempt as prescribed in Section 76-4-102. In addition to the acts which constitute an~~

~~attempt to commit crime under the law of this state, the solicitation or incitement of another to commit any of the crimes defined by this part not allowed by the commission of the crime, the collection or assemblage of any materials with the intent that they are to be used then or at a later time in the commission of the crime, or the entry, with or without permission, of a building, enclosure or other premises of another with the intent to commit any such crime therein or thereon shall constitute an attempt to commit the crime.]~~

(1) (a) An actor that attempts to commit a crime under this part is punishable for the attempt as prescribed in Section 76-4-102.

(b) In addition to the acts that constitute an attempt to commit a crime under the law of this state, an actor's conduct constitutes an attempt to commit a crime under this part if the actor:

(i) solicits or incites another individual to commit a crime under this part;

(ii) collects or assembles materials with the intent to use the materials to commit a crime under this part; or

(iii) enters, with or without permission, a building, enclosure, or other premises intending to commit a crime under this part.

(2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under this section or the name of the actor may not be made public.

Section 114. Section **76-8-805** is amended to read:

**76-8-805. Conspiracy to commit crimes of sabotage.**

(1) (a) If two or more [persons] actors conspire to commit [any crime defined by] a crime under this part and regardless of whether an additional act is done in furtherance of the conspiracy, each [of the persons] actor:

(i) is guilty of conspiracy in accordance with Section 76-4-201; and

(ii) notwithstanding Section 76-4-202, is subject to the same punishment as if [he] the actor had committed the crime [which he] that the actor conspired to commit[, whether or not any act be done in furtherance of the conspiracy].

(b) [It shall not constitute any] It is not a defense or ground of suspension of judgment, sentence, or punishment [on behalf of any person prosecuted] under this section that [any of his] an actor's fellow conspirators [has] have been acquitted, [has] have not been arrested or convicted, or [is] are amenable to justice or [has] have been pardoned or otherwise discharged

4184 before or after a conviction.

4185 (2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's  
4186 conduct under Subsection (1)(a) or the name of the actor may not be made public.

4187 Section 115. Section **76-8-807** is amended to read:

4188 **76-8-807. Trespassing at a war or defense facility.**

4189 ~~[(1) Any individual, partnership, association, corporation, municipal corporation, or~~  
4190 ~~state or any political subdivision thereof engaged in, or preparing to engage in, the~~  
4191 ~~manufacture, transportation or storage of any product to be used in the preparation of the~~  
4192 ~~United States or of any of the states for defense or for war or in the prosecution of war by the~~  
4193 ~~United States, or the manufacture, transportation, distribution or storage of gas, oil, coal,~~  
4194 ~~electricity or water, or any natural or artificial persons operating any public utility, whose~~  
4195 ~~property, except where it fronts on water or where there are entrances for railway cars, vehicles,~~  
4196 ~~persons, or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post~~  
4197 ~~around his or its property at each gate, entrance, dock, or railway entrance and every one~~  
4198 ~~hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also~~  
4199 ~~designate a point of entrance or place where application may be made for permission to enter,~~  
4200 ~~and permission shall not be denied to any loyal citizen who has a valid right to enter.]~~

4201 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4202 (2) An actor commits trespassing at a war or defense facility if:

4203 (a) the actor intentionally enters a facility engaged in, or preparing to engage in, the  
4204 manufacture, transportation, or storage of a product to be used in the preparation of the United  
4205 States government or of a state government for defense or for war or in the prosecution of war  
4206 by the United States government;

4207 (b) the actor does not have permission from the owner of the facility to enter; and

4208 (c) the facility has posted signs reading "No Entry Without Permission."

4209 ~~[(2)] (3) [Any person willfully entering property enumerated in Subsection (1), without~~  
4210 ~~permission of the owner, shall be guilty of] A violation of Subsection (2) is a class C~~  
4211 ~~misdemeanor.~~

4212 (4) (a) A peace officer or individual employed as a watchman, a guard, or in a  
4213 supervisory capacity on the premises of a facility under this section may stop an individual  
4214 found on the premises and detain the individual for the purpose of demanding the individual's

4215 name, address, and reason for being on the premises.

4216 (b) If the peace officer or individual employed as a watchman, a guard, or in a  
4217 supervisory capacity on the premises of a facility under this section has reason to believe that  
4218 an individual stopped on the facility's premises has no right to be there, the peace officer or  
4219 employee may:

4220 (i) release the individual; or

4221 (ii) arrest the individual without a warrant on the charge of violating this section.

4222 Section 116. Section **76-8-809** is amended to read:

4223 **76-8-809. Closing or restricting use of highways abutting defense or war facilities**  
4224 **-- Posting of notices.**

4225 ~~[Any individual, partnership, association, corporation, municipal corporation or state or~~  
4226 ~~any political subdivision thereof engaged in or preparing to engage in the manufacture,~~  
4227 ~~transportation or storage of any product to be used in the preparation of the United States or~~  
4228 ~~any of the states for defense or for war or in the prosecution of war by the United States, or in~~  
4229 ~~the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or~~  
4230 ~~any of said natural or artificial persons operating any public utility who has property so used~~  
4231 ~~which he or it believes will be endangered if public use and travel is not restricted or prohibited~~  
4232 ~~on one or more highways or parts thereof upon which the property abuts, may petition the~~  
4233 ~~highway commissioners of any city, town, or county to close one or more of the highways or~~  
4234 ~~parts thereof to public use and travel or to restrict by order the use and travel upon one or more~~  
4235 ~~of the highways or parts thereof.]~~

4236 ~~[Upon receipt of the petition, the highway commissioners shall set a day for hearing and~~  
4237 ~~give notice of the hearing, as a class A notice under Section 63G-30-102, for the city, town, or~~  
4238 ~~county, for at least seven days before the day of the hearing. If, after hearing, the highway~~  
4239 ~~commissioners determine that the public safety and the safety of the property of the petitioner~~  
4240 ~~so require, they shall by suitable order close to public use and travel or reasonably restrict the~~  
4241 ~~use of and travel upon one or more of the highways or parts thereof; provided the highway~~  
4242 ~~commissioners may issue written permits to travel over the highway so closed or restricted to~~  
4243 ~~responsible and reputable persons for a term, under conditions and in a form as the~~  
4244 ~~commissioners may prescribe. Appropriate notices in letters at least three inches high shall be~~  
4245 ~~posted conspicuously at each end of any highway so closed or restricted by an order. The~~

4246 ~~highway commissioners may at any time revoke or modify any order so made].~~

4247 (1) As used in this section:

4248 (a) "Highway" means a place used for travel to or from property, including a private or  
4249 public street or way.

4250 (b) "Highway commissioner" means an individual, a board, or other body having  
4251 authority to restrict or close the highway to public use and travel.

4252 (c) "Public utility" means a system owned or operated for public use, including:

4253 (i) a pipeline system;

4254 (ii) a system for gas, electric, heat, water, oil, sewer, telephone, telegraph, radio,  
4255 railway, or transportation communication;

4256 (iii) a railroad; or

4257 (iv) an airplane.

4258 (2) An individual, a partnership, an association, a corporation, a municipal corporation,  
4259 the state, or a political subdivision of the state, may petition the highway commissioner of a  
4260 city, town, or county to close or restrict travel upon a highway if the individual, partnership,  
4261 association, corporation, municipal corporation, state, or political subdivision is:

4262 (a) engaged in or preparing to engage in the manufacture, transportation, or storage of a  
4263 product to be used in the preparation of the United States government or a state government for  
4264 defense, for war, or in the prosecution of war by the United States government; or

4265 (b) (i) (A) manufacturing, transporting, distributing, or storing gas, oil, coal, electricity,  
4266 or water; or

4267 (B) operating a public utility; and

4268 (ii) believes the gas, oil, electricity, water, or public utility will be endangered if public  
4269 use and travel is not restricted or prohibited on a highway abutting the property involved in  
4270 operating the public utility or manufacturing, transporting, distributing, or storing the gas, oil,  
4271 coal, electricity, or water.

4272 (3) Upon receiving a petition described in Subsection (2), the highway commissioner  
4273 shall set a day for a public hearing and give notice of the hearing at least seven days before the  
4274 day on which the hearing will be held, as a class A notice under Section 63G-30-102, for the  
4275 city, town, or county.

4276 (4) (a) Subject to Subsection (5), after holding the hearing described in Subsection (3),

the highway commissioner may, after determining that public safety and the safety of the property of the petitioner require the closure or restricted use of the highway, issue an order to:

(i) close the highway to all public use and travel; or

(ii) reasonably restrict travel on the highway for the safety of the petitioner's property.

(b) Visible notices at least three inches tall detailing the closure or restriction shall be posted at each end of a highway closed or restricted under this Subsection (4).

(5) A highway commissioner issuing an order under Subsection (4) may issue a permit to a responsible and reputable individual to travel on a closed or restricted highway under conditions set by the highway commissioner.

Section 117. Section **76-8-810** is amended to read:

**76-8-810. Violation of an order closing or restricting a highway.**

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-809 apply to this section.

(2) An actor commits violation of an order closing or restricting a highway if the actor violates an order issued by a highway commissioner closing or restricting a highway under Section 76-8-809.

(3) ~~[Whoever violates any order made under the immediate preceding section shall be guilty of]~~ A violation of Subsection (2) is a class C misdemeanor.

Section 118. Section **76-8-811** is amended to read:

**76-8-811. Bargaining rights of employees not impaired by sabotage prevention laws.**

Nothing in this part shall be construed to impair, curtail, or destroy the rights of employees and ~~[their]~~ the employees' representatives to self organize, to form, join, or assist labor organizations, to bargain collectively through representatives of ~~[their]~~ the employees' own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection as provided by state or federal laws.

Section 119. Section **76-8-901** is amended to read:

**76-8-901. Definitions.**

~~[For the purpose of]~~ As used in this part:

(1) "Criminal syndicalism" ~~[is]~~ means the doctrine ~~[which]~~ that advocates crime, violence, force, arson, destruction of property, sabotage, or other unlawful acts or methods, as a

means of accomplishing or effecting industrial or political ends, or as a means of effecting industrial or political revolution.

(2) "Sabotage" means the unlawful and intentional damage or injury to, or destruction of, real or personal property, ~~[in any form whatsoever, of any]~~ of an employer or owner by ~~[his employees, or by any employer, or by any person at the instance of any employer, or at the instance, request, or instigation of employees, or any other person]~~ an individual.

Section 120. Section **76-8-902** is amended to read:

**76-8-902. Advocating criminal syndicalism or sabotage.**

~~[Any person who by word of mouth or writing advocates, suggests, or teaches the duty, necessity, propriety, or expediency of crime, criminal syndicalism or sabotage, or who advocates, suggests or teaches the duty, necessity, propriety, or expediency or doing any act of violence, the destruction of or damage to any property, the bodily injury to any person, or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, or who prints, publishes, edits, or issues, or knowingly circulates, sells, or distributes, or publicly displays, any books, pamphlets, paper, handbill, poster, document, or written or printed matter in any form whatsoever, containing, advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, the doing of any act of violence, the destruction of or damage to any property, the injury to any person, or the commission of any crime or unlawful act, as a means of accomplishing, effecting, or bringing about any industrial or political ends or change, or as a means of accomplishing, effecting, or bringing about any industrial or political revolution, or who openly or at all attempts to justify by word of mouth or writing the commission or the attempt to commit sabotage, any act of violence, the destruction of or damage to any property, the injury of any person, or the commission of any crime or unlawful act, with the intent to exemplify, spread, or teach or suggest criminal syndicalism, or organizes, or helps to organize, or becomes a member of, or voluntarily assembles with, any society or assemblage of persons formed to teach or advocate, or which teaches, advocates, or suggests the doctrine of criminal syndicalism or sabotage, or the necessity, propriety, or expediency of doing any act of violence or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, is guilty of a felony of the third degree].~~

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this

4339 section.

4340 (2) An actor commits advocating criminal syndicalism or sabotage if the actor:

4341 (a) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of  
4342 crime, criminal syndicalism, or sabotage;

4343 (b) as a means of accomplishing or effecting industrial or political ends, change, or  
4344 revolution;

4345 (i) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of  
4346 performing an act of violence, destroying or damaging property, causing bodily injury to an  
4347 individual, or committing a crime or unlawful act;

4348 (ii) prints, publishes, edits, or issues, or knowingly circulates, sells, distributes, or  
4349 publicly displays a book, pamphlet, paper, handbill, poster, document, or written or printed  
4350 matter in any form, containing, advocating, advising, suggesting, or teaching crime, criminal  
4351 syndicalism, sabotage, performing an act of violence, the destruction of or damage to property,  
4352 the injury to an individual, or the commission of a crime or unlawful act; or

4353 (iii) organizes or becomes a member of, or voluntarily assembles with, a society or  
4354 assemblage of individuals formed to teach or advocate the doctrine of criminal syndicalism or  
4355 sabotage, or the necessity, propriety, or expediency of doing an act of violence or the  
4356 commission of a crime or unlawful act; or

4357 (c) with the intent to exemplify, spread, or teach or suggest criminal syndicalism,  
4358 attempts to justify sabotage, an act of violence, the destruction of or damage to property, the  
4359 injury of an individual, or the commission of a crime or unlawful act.

4360 (3) A violation of Subsection (2) is a third degree felony.

4361 Section 121. Section **76-8-903** is amended to read:

4362 **76-8-903. Assembling for advocating criminal syndicalism or sabotage.**

4363 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this  
4364 section.

4365 (2) [~~The assembly or consorting of two or more persons~~] An actor commits assembling  
4366 for advocating criminal syndicalism or sabotage if the actor, as a means of accomplishing or  
4367 effecting industrial or political ends, change, or revolution:

4368 (a) assembles with two or more individuals; and

4369 (b) assembles for the purpose of advocating, teaching, or suggesting:

(i) the doctrine of criminal syndicalism~~[, or to advocate, teach, suggest or encourage sabotage, or]; or~~

(ii) the duty, necessity, propriety, or expediency of ~~[doing any]~~ performing an act of violence, ~~[the destruction of or damage to any]~~ destroying or damaging property, ~~[the]~~ causing bodily injury to ~~[any person, or the commission of any]~~ an individual, or committing a crime or unlawful act ~~[as a means of accomplishing or effecting any industrial or political ends, change or revolution, is hereby declared unlawful, and every person voluntarily participating therein, or by his presence aiding and instigating the same is guilty of a felony of the third degree].~~

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

Section 122. Section **76-8-904** is amended to read:

**76-8-904. Permitting the use of property for assembly advocating criminal syndicalism or sabotage.**

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits permitting the use of property for assembly advocating criminal syndicalism or sabotage if the actor:

(a) [The] is an owner, lessee, agent, superintendent, or ~~[person]~~ individual in charge or occupation of ~~[any] a~~ place, building, room, or structure~~[-]; and~~

(b) [who] knowingly permits [therein any] assembly or consorting of [persons] individuals prohibited [by the provisions of] under Section 76-8-903~~[, or who after notification that the place or premises, or any part thereof, is so used, permits such use to be continued, is guilty of a class B misdemeanor].~~

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 123. Section **76-8-1201** is amended to read:

**76-8-1201. Definitions.**

As used in this part:

(1) "Client" means a person who receives or has received public assistance.

(2) "Overpayment" ~~[has the same meaning as]~~ means the same as that term is defined in Section 35A-3-102.

(3) "Provider" ~~[has the same meaning as]~~ means the same as that term is defined in Section 26B-9-101.

(4) "Public assistance" ~~[has the same meaning as]~~ means the same as that term is defined in Section 35A-1-102.

Section 124. Section **76-8-1203** is amended to read:

**76-8-1203. Required disclosures by an applicant, a recipient, or a provider of public assistance.**

(1) ~~[Each person]~~ An individual who is 18 years old or older and applies for public assistance, or who is 18 years old or older and currently receives public assistance, shall disclose to the state agency administering the public assistance each fact that may materially affect the ~~[determination of the person's]~~ individual's eligibility to receive or continue to receive public assistance, including the ~~[person's]~~ individual's current:

- (a) marital status;
- (b) household composition;
- (c) employment;
- (d) earned and unearned income, as defined by rule;
- (e) receipt of monetary and in-kind gifts that may affect the ~~[person's]~~ individual's eligibility;
- (f) assets that may affect the ~~[person's]~~ individual's eligibility; and
- (g) any other material fact or change in circumstance that may affect the determination of ~~[that person's]~~ the individual's eligibility to receive public assistance benefits, or may affect the amount of benefits for which the ~~[person]~~ individual is eligible.

~~[(2) A person applying for public assistance who intentionally, knowingly, or recklessly fails to disclose a material fact required to be disclosed under Subsection (1) is guilty of public assistance fraud as provided in Section 76-8-1206.]~~

~~[(3) With the exception of a client receiving public assistance from the Department of Workforce Services or the Department of Health, a client who intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance a change in a material fact required to be disclosed under Subsection (1), within 10 days after the date of the change, is guilty of public assistance fraud as provided in Section 76-8-1206.]~~

~~[(4) A client who intentionally, knowingly, or recklessly fails to disclose to the Department of Workforce Services or the Department of Health at the time of a review or recertification, whichever comes first, a change in a material fact required to be disclosed under~~

~~Subsection (1) is guilty of public assistance fraud as provided in Section 76-8-1206.]~~

(2) (a) Subject to Subsection (2)(b), a provider that solicits, requests, or receives, actually or constructively, a payment or contribution in the form of an assessment, a payment, a gift, a devise, a bequest, or other means, directly or indirectly, from a client or client's family shall:

(i) notify the state agency administering the public assistance to the client of the amount of the payment or contribution the provider received from the client or the client's family; and

(ii) provide the notification to the state agency in writing within 10 days after the day on which the payment or contribution was received.

(b) If the payment or contribution described in Subsection (2)(a) is made under an agreement, written or oral, the provider shall notify the state agency administering the public assistance to the client of the payment or contribution within 10 days after the day on which the provider entered into the agreement.

(3) An actor may be charged under Section 76-8-1203.1, 76-8-1203.3, or 76-8-1203.5 for failing to provide information required under this section.

Section 125. Section **76-8-1203.1** is enacted to read:

**76-8-1203.1. Public assistance fraud by an applicant for public assistance.**

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by an applicant for public assistance if the actor intentionally, knowingly, or recklessly:

(a) applies for public assistance; and

(b) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203(1).

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds \$5,000;

(b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;

(c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or

(d) a class B misdemeanor if the value is less than \$500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5) (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 126. Section **76-8-1203.3** is enacted to read:

**76-8-1203.3. Public assistance fraud by a recipient of public assistance.**

(1) (a) As used in this section, "SNAP benefit" means the same as that term is defined in Section 35A-1-102.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by a recipient of public assistance if the actor:

(a) (i) except as provided in Subsection (2)(b), is receiving public assistance administered by a state agency; and

(ii) intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance to the actor of a change of a material fact required to be disclosed under Subsection 76-8-1203(1) within 10 days after the day on which the change occurred;

(b) (i) is receiving public assistance from the Department of Workforce Services or the Department of Health and Human Services; and

(ii) at the time of a review or recertification, whichever comes first, intentionally, knowingly, or recklessly fails to disclose a change of a material fact required to be disclosed under Subsection 76-8-1203(1);

(c) in a manner not allowed by law, intentionally, knowingly, or recklessly uses, transfers, acquires, traffics in, falsifies, or possesses:

4494 (i) SNAP benefits;  
4495 (ii) a SNAP benefit identification card;  
4496 (iii) a certificate of eligibility for medical services;  
4497 (iv) a Medicaid identification card;  
4498 (v) a fund transfer instrument;  
4499 (vi) a payment instrument; or  
4500 (vii) a public assistance warrant;  
4501 (d) (i) is receiving public assistance;  
4502 (ii) acquires income or resources in excess of the amount the actor previously reported  
4503 to the state agency administering the public assistance to the actor; and  
4504 (iii) fails to notify the state agency to which the actor previously reported within 10  
4505 days after the day on which the actor acquired the excess income or resources;  
4506 (e) (i) fails to disclose a material fact required to be disclosed under Subsection  
4507 76-8-1203(1) or notify a state agency under Subsection 76-8-1203(2); and  
4508 (ii) (A) intends to obtain or help another individual obtain an overpayment; or  
4509 (B) obtains an overpayment, unauthorized payment, or benefit; or  
4510 (f) receives an unauthorized payment or benefit as a result of unlawful acts described in  
4511 this section, Section 76-8-1203.3, Section 76-8-1203.5, or Section 76-8-1203.7.  
4512 (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of  
4513 payments, assistance, or other benefits received, misappropriated, claimed, or applied:  
4514 (a) a second degree felony if the value is or exceeds \$5,000;  
4515 (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;  
4516 (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or  
4517 (d) a class B misdemeanor if the value is less than \$500.  
4518 (4) It is not a defense to prosecution under this section that the actor repaid the funds or  
4519 benefits obtained in violation of this section.  
4520 (5) (a) In determining the value of payments, assistance, or other benefits received to  
4521 determine the penalty level of an actor's conduct under Subsection (3), the value is calculated  
4522 by aggregating the values of each instance of public assistance fraud committed by the actor as  
4523 part of the same facts and circumstances or a related series of facts and circumstances.  
4524 (b) The value of a benefit received by an individual is the ordinary or usual charge for

4525 similar benefits in the private sector.

4526 (6) The provisions of Section 35A-1-503 apply to a prosecution brought under this  
4527 section.

4528 (7) Incidents of trafficking in SNAP benefits that occur within a six-month period,  
4529 committed by an individual or coconspirators, are deemed to be a related series of facts and  
4530 circumstances regardless of whether the transactions are conducted with a variety of unrelated  
4531 parties.

4532 Section 127. Section **76-8-1203.5** is enacted to read:

4533 **76-8-1203.5. Public assistance fraud by a provider.**

4534 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this  
4535 section.

4536 (2) An actor commits public assistance fraud by a provider if the actor:

4537 (a) is a provider; and

4538 (b) intentionally, knowingly, or recklessly:

4539 (i) receives a payment after failing to comply with the requirements in Subsection  
4540 76-8-1203(1) or 76-8-1203(2);

4541 (ii) files a claim for payment under a state or federally funded public assistance  
4542 program for goods or services not provided to or for a client under that program;

4543 (iii) files or falsifies a claim, report, or document required by a state or federal law, a  
4544 rule, or a provider agreement for goods or services not authorized under the state or federally  
4545 funded public assistance program for which the goods or services were provided;

4546 (iv) fails to credit the state for payments received from other sources;

4547 (v) bills a client, or the client's family, for:

4548 (A) goods or services not provided; or

4549 (B) an amount greater than that allowed by law or rule; or

4550 (vi) fails to comply with the notification requirements under Subsection 76-8-1203(2).

4551 (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of  
4552 payments, assistance, or other benefits received, misappropriated, claimed, or applied:

4553 (a) a second degree felony if the value is or exceeds \$5,000;

4554 (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;

4555 (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or

4556 (d) a class B misdemeanor if the value is less than \$500.

4557 (4) It is not a defense to prosecution under this section that the actor repaid the funds or  
4558 benefits obtained in violation of this section.

4559 (5) (a) In determining the value of payments, assistance, or other benefits received to  
4560 determine the penalty level of an actor's conduct under Subsection (3), the value is calculated  
4561 by aggregating the values of each instance of public assistance fraud committed by the actor as  
4562 part of the same facts and circumstances or a related series of facts and circumstances.

4563 (b) The value of a benefit received by an individual is the ordinary or usual charge for  
4564 similar benefits in the private sector.

4565 (6) This section does not apply to offenses by providers under the state's Medicaid  
4566 program that are actionable under Title 26B, Chapter 3, Part 11, Utah False Claims Act.

4567 (7) The provisions of Section 35A-1-503 apply to a prosecution brought under this  
4568 section.

4569 Section 128. Section **76-8-1203.7** is enacted to read:

4570 **76-8-1203.7. Fraudulently misappropriating public assistance funds.**

4571 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this  
4572 section.

4573 (2) An actor commits fraudulently misappropriating public assistance funds if the  
4574 actor:

4575 (a) (i) is an administrator of a state or federally funded public assistance program; and

4576 (ii) while performing the actor's duties as an administrator, intentionally, knowingly, or  
4577 recklessly fraudulently misappropriates funds exchanged for:

4578 (A) SNAP benefits;

4579 (B) an identification card;

4580 (C) a certificate of eligibility for medical services;

4581 (D) a Medicaid identification card; or

4582 (E) other public assistance the actor has been entrusted with or that has come into the  
4583 actor's possession as a result of the actor's duties; or

4584 (b) (i) is an individual entrusted with:

4585 (A) SNAP benefits;

4586 (B) an identification card;

(C) a certificate of eligibility for medical services;

(D) a Medicaid identification card; or

(E) other public assistance with which the individual has been entrusted; and

(ii) intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for a benefit described in Subsection (2)(b)(i) with which the individual has been entrusted.

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds \$5,000;

(b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;

(c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or

(d) a class B misdemeanor if the value is less than \$500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5) (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 129. Section **76-8-1207** is amended to read:

**76-8-1207. Evidence in criminal actions for public assistance fraud.**

In ~~[any]~~ a criminal action ~~[pursuant to]~~ under this part:

(1) a paid state warrant made to the order of ~~[a party]~~ an individual or a payment made through an electronic benefit card issued to ~~[a party]~~ an individual constitutes prima facie evidence that the ~~[party]~~ individual received financial assistance from the state; and

(2) all of the records in the custody of the ~~[department]~~ state agency administering public assistance relating to the application for, verification of, issuance of, receipt of, and use of public assistance constitute records of regularly conducted activity within the meaning of the

4618 exceptions to the hearsay rule of evidence[;].

4619 ~~[(3) the value of the benefits received shall be based on the ordinary or usual charge for~~  
 4620 ~~similar benefits in the private sector; and]~~

4621 ~~[(4) the repayment of funds or other benefits obtained in violation of the provisions of~~  
 4622 ~~this part constitutes no defense to, or ground for dismissal of, that action.]~~

4623 Section 130. Section ~~76-8-1301~~ is amended to read:

4624 **76-8-1301. False statement to obtain or increase unemployment compensation.**

4625 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4626 ~~[(a)]~~

4627 ~~(2) [A person who makes a false statement or representation knowing it to be false or~~  
 4628 ~~knowingly fails to disclose a material fact,]~~ An actor commits false statement to obtain or  
 4629 increase unemployment compensation if the actor, to obtain or increase a benefit or other  
 4630 payment under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment  
 4631 Compensation Law of ~~[any]~~ a state or of the federal government;

4632 ~~(a) [for any person is guilty of unemployment insurance fraud:]~~ makes a false statement  
 4633 or representation, knowing the representation is false; or

4634 ~~(b) knowingly fails to disclose a material fact.~~

4635 ~~[(b)]~~ ~~(3) (a)~~ A violation of Subsection ~~[(1)(a)]~~ ~~(2)~~ is:

4636 (i) a class B misdemeanor ~~[when]~~ if the value of the money obtained or sought to be  
 4637 obtained is less than \$500;

4638 (ii) a class A misdemeanor ~~[when]~~ if the value of the money obtained or sought to be  
 4639 obtained is or exceeds \$500 but is less than \$1,500;

4640 (iii) a third degree felony ~~[when]~~ if the value of the money obtained or sought to be  
 4641 obtained is or exceeds \$1,500 but is less than \$5,000; or

4642 (iv) a second degree felony ~~[when]~~ if the value of the money obtained or sought to be  
 4643 obtained is or exceeds \$5,000.

4644 ~~[(c)]~~ ~~(b)~~ The determination of the degree of an offense under Subsection ~~[(1)(b) shall~~  
 4645 ~~be]~~ ~~(3)(a)~~ is measured by the total value of all money obtained or sought to be obtained by the  
 4646 unlawful conduct.

4647 ~~[(2) (a) An officer or agent of an employing unit as defined in Section 35A-4-202 or~~  
 4648 ~~any other person who makes a false statement or representation knowing it to be false, or who~~

4649 knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment  
4650 compensation benefits to an individual entitled to those benefits, or to avoid becoming or  
4651 remaining a subject employer or to avoid or reduce any contribution or other payment required  
4652 from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the  
4653 Unemployment Compensation Law of any state or of the federal government, or who willfully  
4654 fails or refuses to make a contribution or other payment or to furnish any report required in  
4655 Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or  
4656 copying of records as required under that chapter is guilty of unemployment insurance fraud.]

4657 [(b) A violation of Subsection (2)(a) is:]

4658 [(i) a class B misdemeanor when the value of the money obtained or sought to be  
4659 obtained is less than \$500;]

4660 [(ii) a class A misdemeanor when the value of the money obtained or sought to be  
4661 obtained is or exceeds \$500 but is less than \$1,500;]

4662 [(iii) a third degree felony when the value of the money obtained or sought to be  
4663 obtained is or exceeds \$1,500 but is less than \$5,000; or]

4664 [(iv) a second degree felony when the value of the money obtained or sought to be  
4665 obtained is or exceeds \$5,000.]

4666 [(3)(a) A person who willfully violates any provision of Title 35A, Chapter 4,  
4667 Employment Security Act, or any order made under that chapter, the violation of which is made  
4668 unlawful or the observance of which is required under the terms of that chapter, and for which  
4669 a penalty is neither prescribed in that chapter nor provided by any other applicable statute is  
4670 guilty of a class A misdemeanor.]

4671 [(b) Each day a violation of Subsection (3)(a) continues shall be a separate offense:]

4672 [(4) A person is guilty of a class C misdemeanor if:]

4673 [(a) as an employee of the Department of Workforce Services, in willful violation of  
4674 Section 35A-4-312, the employee makes a disclosure of information obtained from an  
4675 employing unit or individual in the administration of Title 35A, Chapter 4, Employment  
4676 Security Act; or]

4677 [(b) the person has obtained a list of applicants for work or of claimants or recipients of  
4678 benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of  
4679 the list for any political purpose.]

Section 131. Section **76-8-1302** is enacted to read:

**76-8-1302. False statement to prevent or reduce unemployment compensation or liability.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits false statement to prevent or reduce unemployment compensation or liability if the actor, to prevent or reduce the payment of unemployment compensation benefits to an individual entitled to those benefits, or to avoid becoming or remaining a subject employer, or to avoid or reduce a contribution or other payment required from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of a state or of the federal government:

(a) makes a false statement or representation, knowing the representation is false; or

(b) knowingly fails to disclose a material fact.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than \$500;

(b) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

(c) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or

(d) a second degree felony if the value of the money obtained or sought to be obtained is or exceeds \$5,000.

(4) An actor under this section may include an officer or agent of an employing unit as defined under Section 35A-4-202.

Section 132. Section **76-8-1303** is enacted to read:

**76-8-1303. Unlawful failure to comply with Employment Security Act requirement.**

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits unlawful failure to comply with Employment Security Act requirements if the actor willfully:

(a) fails or refuses:

(i) to make a contribution or other payment required under Title 35A, Chapter 4,

4711 Employment Security Act;

4712 (ii) to furnish a report required under Title 35A, Chapter 4, Employment Security Act;

4713 or

4714 (iii) to produce or permit the inspection or copying of records required under Title

4715 35A, Chapter 4, Employment Security Act; or

4716 (b) violates a provision of Title 35A, Chapter 4, Employment Security Act, or an order  
4717 made under that chapter, for which the violation:

4718 (i) is made unlawful or the observance of which is required under the terms of Title

4719 35A, Chapter 4, Employment Security Act;

4720 (ii) does not have a prescribed penalty in Title 35A, Chapter 4, Employment Security  
4721 Act, or another applicable statute; and

4722 (iii) is for conduct not described in Subsection (2)(a).

4723 (3) (a) A violation of Subsection (2)(a) is:

4724 (i) a class B misdemeanor if the value of the money obtained or sought to be obtained  
4725 is less than \$500;

4726 (ii) a class A misdemeanor if the value of the money obtained or sought to be obtained  
4727 is or exceeds \$500 but is less than \$1,500;

4728 (iii) a third degree felony if the value of the money obtained or sought to be obtained is  
4729 or exceeds \$1,500 but is less than \$5,000; or

4730 (iv) a second degree felony if the value of the money obtained or sought to be obtained  
4731 is or exceeds \$5,000.

4732 (b) A violation of Subsection (2)(b) is a class A misdemeanor.

4733 (4) An actor under this section may include an officer or agent of an employing unit as  
4734 defined under Section 35A-4-202.

4735 Section 133. Section **76-8-1304** is enacted to read:

4736 **76-8-1304. Unlawful use or disclosure of employment information.**

4737 (1) (a) As used in this section, "employing unit" means the same as that term is defined  
4738 in Section 35A-4-202.

4739 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4740 (2) An actor commits unlawful use or disclosure of employment information if the  
4741 actor:

4742 (a) (i) is an employee of the Department of Workforce Services; and  
 4743 (ii) willfully violates Section 35A-4-312 by making a disclosure of information  
 4744 obtained from an employing unit or individual in the administration of Title 35A, Chapter 4,  
 4745 Employment Security Act; or  
 4746 (b) (i) obtains a list of applicants for work or of claimants or recipients of benefits  
 4747 under Title 35A, Chapter 4, Employment Security Act; and  
 4748 (ii) uses or permits the use of the list described in Subsection (2)(b)(i) for a political  
 4749 purpose.  
 4750 (3) A violation of Subsection (2) is a class C misdemeanor.  
 4751 Section 134. Section **76-8-1402** is amended to read:  
 4752 **76-8-1402. Disruption of activity in or near school building.**  
 4753 (1) (a) As used in this section:  
 4754 (i) (A) "Chief administrator" means the principal of a school or the chief administrator  
 4755 of a school that does not have a principal.  
 4756 (B) "Chief administrator" includes the chief administrator's designee or representative.  
 4757 (ii) "School" means a public or private kindergarten, elementary, or secondary school  
 4758 through grade 12.  
 4759 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.  
 4760 (2) In the absence of a local ordinance or other controlling law governing the conduct  
 4761 described in this Subsection [~~(1), a person is guilty of an offense under Subsection (2) who,~~]  
 4762 (2), an actor commits disruption of activity in or near school building if the actor, while on a  
 4763 street, sidewalk, or public way adjacent to [any] a school building or ground:  
 4764 (a) [~~by his or her presence or acts,~~] materially disrupts the peaceful conduct of school  
 4765 activities by the actor's presence or act; and  
 4766 (b) remains upon the place under Subsection [~~(1)(a)~~] (2)(a) after being asked to leave  
 4767 by the chief administrator of that school.  
 4768 [~~(2)~~] (3) [(a) A violation of Subsection (1) is subject to the penalties under Subsection  
 4769 (2)(b) unless the violation constitutes another offense subject to a greater penalty.]  
 4770 [~~(b)~~] (a) [(i) The] Except as provided under Subsection (4), a first [and] or second  
 4771 violation of Subsection [~~(1) are~~] (2) is a class B [misdemeanors] misdemeanor.  
 4772 [~~(ii)~~] (b) [A third and any subsequent violations of Subsection (1) are class A

4773 misdemeanors] Except as provided under Subsection (4), a third or subsequent violation of  
4774 Subsection (2) is a class A misdemeanor.

4775 (4) If an actor's conduct violates Subsection (2) and the actor's conduct also amounts to  
4776 a violation of another offense with a greater penalty, the offense with the greater penalty  
4777 applies.

4778 Section 135. Section **76-8-1403** is amended to read:

4779 **76-8-1403. Unlawful evasion of law enforcement by entering school property--**

4780 **Restitution.**

4781 (1) (a) As used in this section:

4782 ~~[(a)]~~ (i) "School" means ~~[any]~~ a public or private kindergarten, elementary, or  
4783 secondary school through grade 12, including all buildings and property of the school.

4784 ~~[(b)]~~ (ii) "School property" means real property:

4785 ~~[(i)]~~ (A) that is owned or occupied by a public or private school; or

4786 ~~[(ii)]~~ (B) ~~[(A)]~~ (I) that is temporarily occupied by students for a school-related activity  
4787 or program; and

4788 ~~[(B)]~~ (II) regarding which, during the time the activity or program is being conducted,  
4789 the main use of the real property is allocated to participants in the activity or program.

4790 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4791 (2) ~~[A person is guilty of the class A misdemeanor of evading]~~ An actor commits  
4792 unlawful evasion of law enforcement ~~[while on]~~ by entering school property ~~[, if the person]~~ if  
4793 the actor enters onto school property when:

4794 (a) students are attending the school or students are participating in any school-related  
4795 activity or program on school property; and

4796 (b) the ~~[person]~~ actor is in the act of fleeing or evading, or attempting to flee or evade,  
4797 pursuit or apprehension by ~~[any]~~ a peace officer.

4798 (3) A violation of Subsection (2) is a class A misdemeanor.

4799 ~~[(3)]~~ (4) It is not a defense to a violation of this section that the ~~[person]~~ actor did not  
4800 know that the ~~[person]~~ actor had entered onto school property.

4801 ~~[(4)]~~ (5) As a part of the sentence for violation of this section, the court shall order the  
4802 ~~[defendant]~~ actor to reimburse the school for costs incurred by the school in responding to the  
4803 ~~[defendant's]~~ actor's presence on the school property.

[~~(5)~~] (6) The offense under this section [~~of evading law enforcement while on school property~~] is a separate offense from a violation of:

(a) [~~Section 41-6a-210, regarding~~] failure to respond to [~~an~~] officer's signal to stop under Section 41-6a-210; or

(b) [~~Section 76-8-305.5, regarding~~] failure to stop at the command of a peace officer under Section 76-8-305.5.

Section 136. Section **76-9-802** is amended to read:

**76-9-802. Definitions.**

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means a person younger than 18 years old.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

(5) (a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

- 4835 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an  
4836 identification number;
- 4837 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 4838 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 4839 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an  
4840 identification number; or
- 4841 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;
- 4842 (ii) any criminal violation of the following provisions:
- 4843 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 4844 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 4845 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 4846 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 4847 (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 4848 (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
- 4849 (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related  
4850 offenses;
- 4851 (vi) ~~[any]~~ a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 4852 (vii) Title 76, Chapter 6, Part 1, Property Destruction;
- 4853 (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 4854 (ix) Title 76, Chapter 6, Part 3, Robbery;
- 4855 (x) ~~[any]~~ a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,  
4856 Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408,  
4857 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410,  
4858 and 76-6-410.5;
- 4859 (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,  
4860 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517,  
4861 76-6-518, and 76-6-520;
- 4862 (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 4863 (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except  
4864 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 4865 (xiv) ~~[Section 76-8-508, which includes]~~ tampering with a witness under Section

4866 76-8-508;  
 4867 (xv) [~~Section 76-8-508.3, which includes~~] retaliation against a witness [~~or~~], victim, or  
 4868 informant under Section 76-8-509.3;  
 4869 (xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
 4870 [~~(xvi)~~] (xvii) [~~Section 76-8-509, which includes~~] extortion or bribery to dismiss a  
 4871 criminal proceeding under Section 76-8-509;  
 4872 [~~(xvii)~~] (xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102,  
 4873 if the violation occurs at an official meeting;  
 4874 [~~(xviii)~~] (xix) Title 76, Chapter 10, Part 3, Explosives;  
 4875 [~~(xix)~~] (xx) Title 76, Chapter 10, Part 5, Weapons;  
 4876 [~~(xx)~~] (xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;  
 4877 [~~(xxi)~~] (xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;  
 4878 [~~(xxii)~~] (xxiii) [~~Section 76-10-1801, which addresses~~] communications fraud under  
 4879 Section 76-10-1801;  
 4880 [~~(xxiii)~~] (xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency  
 4881 Transaction Reporting Act; or  
 4882 [~~(xxiv)~~] (xxv) [~~Section 76-10-2002, which addresses~~] burglary of a research facility  
 4883 under Section 76-10-2002.  
 4884 (b) "Predicate gang crime" also includes:  
 4885 (i) any state or federal criminal offense that by its nature involves a substantial risk that  
 4886 physical force may be used against another in the course of committing the offense; and  
 4887 (ii) any felony violation of a criminal statute of any other state, the United States, or  
 4888 any district, possession, or territory of the United States which would constitute a violation of  
 4889 any offense in Subsection (4)(a) if committed in this state.  
 4890 Section 137. Section **76-9-902** is amended to read:  
 4891 **76-9-902. Definitions.**  
 4892 As used in this part:  
 4893 (1) "Criminal street gang" means an organization, association in fact, or group of three  
 4894 or more persons, whether operated formally or informally:  
 4895 (a) that is currently in operation;  
 4896 (b) that has as one of its substantial activities the commission of one or more predicate

4897 gang crimes;

4898 (c) that has, as a group, an identifying name or an identifying sign or symbol, or both;

4899 and

4900 (d) whose members, acting individually or in concert with other members, engage in or  
4901 have engaged in a pattern of criminal gang activity.

4902 (2) "Gang loitering" means a person remains in one place under circumstances that  
4903 would cause a reasonable person to believe that the purpose or effect of that behavior is to  
4904 enable or facilitate a criminal street gang to:

4905 (a) establish control over one or more identifiable areas;

4906 (b) intimidate others from entering those areas; or

4907 (c) conceal illegal activities.

4908 (3) "Pattern of criminal gang activity" means committing, attempting to commit,  
4909 conspiring to commit, or soliciting the commission of two or more predicate gang crimes  
4910 within five years, if the predicate gang crimes are committed:

4911 (a) (i) by two or more persons; or

4912 (ii) by an individual at the direction of or in association with a criminal street gang; and

4913 (b) with the specific intent to promote, further, or assist in any criminal conduct by  
4914 members of a criminal street gang.

4915 (4) (a) "Predicate gang crime" means any of the following offenses:

4916 (i) ~~[any]~~ a criminal violation of:

4917 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

4918 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

4919 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

4920 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

4921 (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

4922 (iii) Title 76, Chapter 5, Part 2, Criminal Homicide;

4923 (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related  
4924 offenses;

4925 (v) ~~[any]~~ a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

4926 (vi) Title 76, Chapter 6, Part 1, Property Destruction;

4927 (vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

4928 (viii) Title 76, Chapter 6, Part 3, Robbery;  
 4929 (ix) ~~[any]~~ a felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections  
 4930 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6,  
 4931 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;  
 4932 (x) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,  
 4933 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517,  
 4934 76-6-518, and 76-6-520;  
 4935 (xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;  
 4936 (xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections  
 4937 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;  
 4938 (xiii) ~~[Section 76-8-508, which includes]~~ tampering with a witness under Section  
 4939 76-8-508;  
 4940 (xiv) ~~[Section 76-8-508.3, which includes]~~ retaliation against a witness ~~[or]~~, victim, or  
 4941 informant under Section 76-8-508.3;  
 4942 (xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
 4943 ~~[(xv)]~~ (xvi) ~~[Section 76-8-509, which includes]~~ extortion or bribery to dismiss a  
 4944 criminal proceeding under Section 76-8-509;  
 4945 ~~[(xvi)]~~ (xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if  
 4946 the violation occurs at an official meeting;  
 4947 ~~[(xvii)]~~ (xviii) Title 76, Chapter 10, Part 3, Explosives;  
 4948 ~~[(xviii)]~~ (xix) Title 76, Chapter 10, Part 5, Weapons;  
 4949 ~~[(xix)]~~ (xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;  
 4950 ~~[(xx)]~~ (xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;  
 4951 ~~[(xxi)]~~ (xxii) ~~[Section 76-10-1801, which addresses]~~ communications fraud under  
 4952 Section 76-10-1801;  
 4953 ~~[(xxii)]~~ (xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency  
 4954 Transaction Reporting Act;  
 4955 ~~[(xxiii)]~~ (xxiv) ~~[Section 76-10-2002, which addresses]~~ burglary of a research facility[;  
 4956 and] under Section 76-10-2002; or  
 4957 ~~[(xxiv)]~~ (xxv) Title 41, Chapter 1a, Motor Vehicle Act:  
 4958 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an

4959 identification number;

4960 (B) Section 41-1a-1315, regarding false evidence of title and registration;

4961 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

4962 (D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification

4963 number; and

4964 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.

4965 (b) "Predicate gang crime" also includes:

4966 (i) any state or federal criminal offense that by its nature involves a substantial risk that

4967 physical force may be used against another in the course of committing the offense; and

4968 (ii) any felony violation of a criminal statute of any other state, the United States, or

4969 any district, possession, or territory of the United States which would constitute any offense in

4970 Subsection (4)(a) if committed in this state.

4971 (5) (a) "Public place" means any location or structure to which the public or a

4972 substantial group of the public has access, and includes:

4973 (i) a sidewalk, street, or highway;

4974 (ii) a public park, public recreation facility, or any other area open to the public;

4975 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or

4976 playhouse, or the parking lot or structure adjacent to any of these; and

4977 (iv) the common areas of schools, hospitals, apartment houses, office buildings,

4978 transport facilities, and businesses.

4979 (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other

4980 dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

4981 Section 138. Section **76-9-1008** is amended to read:

4982 **76-9-1008. Proof of immigration status required to receive public benefits.**

4983 (1) (a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec.

4984 1621 shall comply with Section 63G-12-402 and shall also comply with this section, except:

4985 (i) as provided in Subsection 63G-12-402(3)(g) or (k); or

4986 (ii) when compliance is exempted by federal law or when compliance could reasonably

4987 be expected to be grounds for the federal government to withhold federal Medicaid funding.

4988 (b) The agency shall verify a person's lawful presence in the United States by requiring

4989 that the applicant under this section sign a certificate under penalty of perjury, stating that the

4990 applicant:

4991 (i) is a United States citizen; or

4992 (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

4993 (c) The certificate under Subsection (1)(b) shall include a statement advising the signer  
4994 that providing false information subjects the signer to penalties for perjury.

4995 (d) The signature under this Subsection (1) may be executed in person or  
4996 electronically.

4997 (e) When an applicant who is a qualified alien has executed the certificate under this  
4998 section, the applicant's eligibility for benefits shall be verified by the agency through the federal  
4999 SAVE program or an equivalent program designated by the United States Department of  
5000 Homeland Security.

5001 (2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
5002 statement of representation in a certificate executed under this section is guilty of public  
5003 assistance fraud by an applicant for public assistance under Section ~~[76-8-1205]~~ 76-8-1203.1.

5004 (3) If the certificate constitutes a false claim of United States citizenship under 18  
5005 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United  
5006 States Attorney for the applicable federal judicial district based upon the venue in which the  
5007 certificate was executed.

5008 (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations  
5009 to the requirements of the provisions of this section that provide for adjudication of unique  
5010 individual circumstances where the verification procedures in this section would impose  
5011 unusual hardship on a legal resident of this state.

5012 (5) If an agency under Subsection (1) receives verification that a person making an  
5013 application for any benefit, service, or license is not a qualified alien, the agency shall provide  
5014 the information to the local law enforcement agency for enforcement of ~~[Section 76-8-1205]~~  
5015 public assistance fraud by an applicant for public assistance under Section 76-8-1203.1 unless  
5016 prohibited by federal mandate.

5017 Section 139. Section **76-10-306** is amended to read:

5018 **76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions --**  
5019 **Persons exempted -- Penalties.**

5020 (1) As used in this section:

- 5021 (a) "Explosive, chemical, or incendiary device" means:
- 5022 (i) dynamite and all other forms of high explosives, including water gel, slurry, military
- 5023 C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel
- 5024 oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting
- 5025 caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid
- 5026 explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other
- 5027 chemical mixture intended to explode with fire or force;
- 5028 (ii) any explosive bomb, grenade, missile, or similar device; and
- 5029 (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device,
- 5030 including any device, except kerosene lamps, if criminal intent has not been established, which
- 5031 consists of or includes a breakable container including a flammable liquid or compound and a
- 5032 wick composed of any material which, when ignited, is capable of igniting the flammable
- 5033 liquid or compound or any breakable container which consists of, or includes a chemical
- 5034 mixture that explodes with fire or force and can be carried, thrown, or placed.
- 5035 (b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or
- 5036 shotgun ammunition, reloading components, or muzzleloading equipment.
- 5037 (c) "Explosive, chemical, or incendiary parts" means any substances or materials or
- 5038 combinations which have been prepared or altered for use in the creation of an explosive,
- 5039 chemical, or incendiary device. These substances or materials include:
- 5040 (i) timing device, clock, or watch which has been altered in such a manner as to be
- 5041 used as the arming device in an explosive;
- 5042 (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and
- 5043 (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time
- 5044 delays, or commercially made or improvised items which, when used singly or in combination,
- 5045 may be used in the construction of a timing delay mechanism, booby trap, or activating
- 5046 mechanism for any explosive, chemical, or incendiary device.
- 5047 (d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun
- 5048 ammunition, or any signaling device customarily used in operation of railroad equipment.
- 5049 (2) The provisions in Subsections (3) and (6) do not apply to:
- 5050 (a) any public safety officer while acting in an official capacity transporting or
- 5051 otherwise handling explosives, chemical, or incendiary devices;

(b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) any person possessing a valid permit issued under the provisions of Uniform Fire Code, Article 77, or any employee of the permittee acting within the scope of employment;

(d) any person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and

(e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.

(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:

(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.

(5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.

(6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.

Section 140. Section **76-10-1602** is amended to read:

**76-10-1602. Definitions.**

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

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

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

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

(a) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

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

(d) false claims for medical benefits, kickbacks, ~~[and any]~~ or other ~~[act]~~ acts prohibited ~~[by]~~ under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through

5114 26B-3-1112;

5115 (e) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 32B, Chapter 4,

5116 Criminal Offenses and Procedure Act;

5117 (f) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 57, Chapter 11,

5118 Utah Uniform Land Sales Practices Act;

5119 (g) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 58, Chapter 37,

5120 Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances

5121 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,

5122 Clandestine Drug Lab Act;

5123 (h) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 61, Chapter 1,

5124 Utah Uniform Securities Act;

5125 (i) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 63G, Chapter 6a,

5126 Utah Procurement Code;

5127 (j) ~~assault [or aggravated assault, Sections]~~ under Section 76-5-102 ~~[and];~~

5128 (k) aggravated assault under Section 76-5-103;

5129 ~~[(k)]~~ (l) a threat of terrorism[;] under Section 76-5-107.3;

5130 ~~[(t)]~~ (m) a criminal homicide offense[; as described in] under Section 76-5-201;

5131 ~~[(m)]~~ (n) kidnapping [or aggravated kidnapping, Sections] under Section 76-5-301

5132 [and];

5133 (o) aggravated kidnapping under Section 76-5-302;

5134 ~~[(n)]~~ (p) human trafficking[;] for labor under Section 76-5-308;

5135 (q) human trafficking for sexual exploitation under Section 76-5-308.1;

5136 (r) human smuggling under Section 76-5-308.3;

5137 (s) human trafficking of a child[; human smuggling, or aggravated human trafficking,

5138 Sections 76-5-308, 76-5-308.1, 76-5-308.3,] under Section 76-5-308.5[;];

5139 (t) benefiting from trafficking and human smuggling under Section 76-5-309[; and];

5140 (u) aggravated human trafficking under Section 76-5-310;

5141 ~~[(o)]~~ (v) sexual exploitation of a minor under Section 76-5b-201;

5142 (w) [or] aggravated sexual exploitation of a minor[; Sections 76-5b-201 and] under

5143 Section 76-5b-201.1;

5144 ~~[(p)]~~ (x) arson under Section 76-6-102;

5145 (y) [or] aggravated arson[, ~~Sections 76-6-102 and~~] under Section 76-6-103;  
 5146 [~~(q)~~] (z) causing a catastrophe[;] under Section 76-6-105;  
 5147 [~~(r)~~] (aa) burglary under Section 76-6-202;  
 5148 (bb) [or] aggravated burglary[, ~~Sections 76-6-202 and~~] under Section 76-6-203;  
 5149 [~~(s)~~] (cc) burglary of a vehicle[;] under Section 76-6-204;  
 5150 [~~(t)~~] (dd) manufacture or possession of an instrument for burglary or theft[;] under  
 5151 Section 76-6-205;  
 5152 [~~(u)~~] (ee) robbery under Section 76-6-301;  
 5153 (ff) [or] aggravated robbery[, ~~Sections 76-6-301 and~~] under Section 76-6-302;  
 5154 [~~(v)~~] (gg) theft[;] under Section 76-6-404;  
 5155 [~~(w)~~] (hh) theft by deception[;] under Section 76-6-405;  
 5156 [~~(x)~~] (ii) theft by extortion[;] under Section 76-6-406;  
 5157 [~~(y)~~] (jj) receiving stolen property[;] under Section 76-6-408;  
 5158 [~~(z)~~] (kk) theft of services[;] under Section 76-6-409;  
 5159 [~~(aa)~~] (ll) forgery[;] under Section 76-6-501;  
 5160 [~~(bb)~~] (mm) [~~fraudulent use of a credit card, Sections~~] unlawful use of financial  
 5161 transaction card under Section 76-6-506.2[;];  
 5162 (nn) unlawful acquisition, possession, or transfer of financial transaction card under  
 5163 Section 76-6-506.3[;], and;  
 5164 (oo) financial transaction card offenses under Section 76-6-506.6;  
 5165 [~~(cc)~~] (pp) deceptive business practices[;] under Section 76-6-507;  
 5166 [~~(dd)~~] (qq) bribery or receiving bribe by person in the business of selection, appraisal,  
 5167 or criticism of goods[;] under Section 76-6-508;  
 5168 [~~(ee)~~] (rr) bribery of a labor official[;] under Section 76-6-509;  
 5169 [~~(ff)~~] (ss) defrauding creditors[;] under Section 76-6-511;  
 5170 [~~(gg)~~] (tt) acceptance of deposit by insolvent financial institution[;] under Section  
 5171 76-6-512;  
 5172 [~~(hh)~~] (uu) unlawful dealing with property by fiduciary[;] under Section 76-6-513;  
 5173 [~~(ii)~~] (vv) bribery or threat to influence contest[;] under Section 76-6-514;  
 5174 [~~(jj)~~] (ww) making a false credit report[;] under Section 76-6-517;  
 5175 [~~(kk)~~] (xx) criminal simulation[;] under Section 76-6-518;

5176           ~~[(tt)]~~ ~~(yy)~~ criminal usury[;] under Section 76-6-520;  
 5177           ~~[(mm)]~~ ~~(zz)~~ insurance fraud[;] under Section 76-6-521;  
 5178           ~~[(nn)]~~ ~~(aaa)~~ retail theft[;] under Section 76-6-602;  
 5179           ~~[(oo)]~~ ~~(bbb)~~ computer crimes[;] under Section 76-6-703;  
 5180           ~~[(pp)]~~ ~~(ccc)~~ identity fraud[;] under Section 76-6-1102;  
 5181           ~~[(qq)]~~ ~~(ddd)~~ mortgage fraud[;] under Section 76-6-1203;  
 5182           ~~[(rr)]~~ ~~(eee)~~ sale of a child[;] under Section 76-7-203;  
 5183           ~~[(ss)]~~ ~~(fff)~~ bribery to influence official or political actions[;] under Section 76-8-103;  
 5184           ~~[(tt)]~~ ~~(ggg)~~ ~~[threats]~~ threat to influence official or political action[;] under Section  
 5185   76-8-104;  
 5186           ~~[(uu)]~~ ~~(hhh)~~ receiving bribe or bribery by public servant[;] under Section 76-8-105;  
 5187           ~~[(vv)]~~ ~~(iii)~~ receiving bribe ~~[or bribery]~~ for endorsement of person as a public servant[;]  
 5188   under Section 76-8-106;  
 5189           ~~(jjj)~~ bribery for endorsement of person as public servant under Section 76-8-106.1;  
 5190           ~~[(ww)]~~ ~~(kkk)~~ ~~[official misconduct, Sections]~~ official misconduct based on  
 5191   unauthorized act or failure of duty under Section 76-8-201 [and];  
 5192           ~~(lll)~~ official misconduct concerning inside information under Section 76-8-202;  
 5193           ~~[(xx)]~~ ~~(mmm)~~ obstruction of justice[;] in a criminal investigation or proceeding under  
 5194   Section 76-8-306;  
 5195           ~~[(yy)]~~ ~~(nnn)~~ acceptance of bribe or bribery to prevent criminal prosecution[;] under  
 5196   Section 76-8-308;  
 5197           ~~(ooo)~~ harboring or concealing offender who has escaped from official custody under  
 5198   Section 76-8-309.2;  
 5199           ~~[(zz)]~~ ~~(ppp)~~ making a false or inconsistent material [statements,] statement under  
 5200   Section 76-8-502;  
 5201           ~~[(aaa)]~~ ~~(qqq)~~ making a false or inconsistent [statements,] statement under Section  
 5202   76-8-503;  
 5203           ~~[(bbb)]~~ ~~(rrr)~~ making a written false [statements,] statement under Section 76-8-504;  
 5204           ~~[(ccc)]~~ ~~(sss)~~ tampering with a witness ~~[or soliciting or receiving a bribe,]~~ under Section  
 5205   76-8-508;  
 5206           ~~[(ddd)]~~ ~~(ttt)~~ retaliation against a witness, victim, or informant[;] under Section

5207 76-8-508.3;  
 5208 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
 5209 (eee) (vvv) extortion or bribery to dismiss a criminal proceeding[;] under Section  
 5210 76-8-509;  
 5211 (fff) (www) tampering with evidence[;] under Section 76-8-510.5;  
 5212 (ggg) (xxx) falsification or alteration of a government record[;] under Section  
 5213 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter  
 5214 11, Lobbyist Disclosure and Regulation Act;  
 5215 (hhh) (yyy) public assistance fraud [in violation of] by an applicant for public  
 5216 assistance under Section [76-8-1203, 76-8-1204, or 76-8-1205] 76-8-1203.1;  
 5217 (zzz) public assistance fraud by a recipient of public assistance under Section  
 5218 76-8-1203.3;  
 5219 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;  
 5220 (bbbb) fraudulently misappropriating public assistance funds under Section  
 5221 76-8-1203.7;  
 5222 (iii) (cccc) [unemployment insurance fraud;] false statement to obtain or increase  
 5223 unemployment compensation under Section 76-8-1301;  
 5224 (dddd) false statement to prevent or reduce unemployment compensation or liability  
 5225 under Section 76-8-1302;  
 5226 (eeee) unlawful failure to comply with Employment Security Act requirements under  
 5227 Section 76-8-1303;  
 5228 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;  
 5229 (jjj) (gggg) intentionally or knowingly causing one animal to fight with another[;]  
 5230 under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;  
 5231 (kkk) (hhhh) possession, use, or removal of explosives, chemical, or incendiary  
 5232 devices or parts[;] under Section 76-10-306;  
 5233 (HH) (iiii) delivery to common carrier, mailing, or placement on premises of an  
 5234 incendiary device[;] under Section 76-10-307;  
 5235 (mmm) (jjjj) possession of a deadly weapon with intent to assault[;] under Section  
 5236 76-10-507;  
 5237 (nnn) (kkkk) unlawful marking of pistol or revolver[;] under Section 76-10-521;

5238            [~~(ooo)~~] (llll) alteration of number or mark on pistol or revolver[;] under Section  
5239    76-10-522;  
5240            [~~(ppp)~~] (mmmm) forging or counterfeiting trademarks, trade name, or trade device[;]  
5241    under Section 76-10-1002;  
5242            [~~(qqq)~~] (nnnn) selling goods under counterfeited trademark, trade name, or trade  
5243    devices[;] under Section 76-10-1003;  
5244            [~~(rrr)~~] (oooo) sales in containers bearing registered trademark of substituted articles[;]  
5245    under Section 76-10-1004;  
5246            [~~(sss)~~] (pppp) selling or dealing with article bearing registered trademark or service  
5247    mark with intent to defraud[;] under Section 76-10-1006;  
5248            [~~(ttt)~~] (qqqq) gambling[;] under Section 76-10-1102;  
5249            [~~(uuu)~~] (rrrr) gambling fraud[;] under Section 76-10-1103;  
5250            [~~(vvv)~~] (ssss) gambling promotion[;] under Section 76-10-1104;  
5251            [~~(www)~~] (tttt) possessing a gambling device or record[;] under Section 76-10-1105;  
5252            [~~(xxx)~~] (uuuu) confidence game[;] under Section 76-10-1109;  
5253            [~~(yyy)~~] (vvvv) distributing pornographic material[;] under Section 76-10-1204;  
5254            [~~(zzz)~~] (www) inducing acceptance of pornographic material[;] under Section  
5255    76-10-1205;  
5256            [~~(aaa)~~] (xxxx) dealing in harmful material to a minor[;] under Section 76-10-1206;  
5257            [~~(bbb)~~] (yyyy) distribution of pornographic films[;] under Section 76-10-1222;  
5258            [~~(ccc)~~] (zzzz) indecent public displays[;] under Section 76-10-1228;  
5259            [~~(ddd)~~] (aaaa) prostitution[;] under Section 76-10-1302;  
5260            [~~(eee)~~] (bbbb) aiding prostitution[;] under Section 76-10-1304;  
5261            [~~(fff)~~] (cccc) exploiting prostitution[;] under Section 76-10-1305;  
5262            [~~(ggg)~~] (dddd) aggravated exploitation of prostitution[;] under Section 76-10-1306;  
5263            [~~(hhh)~~] (eeee) communications fraud[;] under Section 76-10-1801;  
5264            [~~(iii)~~] (ffff) [~~any~~] an act prohibited by the criminal provisions of Part 19, Money  
5265    Laundering and Currency Transaction Reporting Act;  
5266            [~~(jjj)~~] (gggg) vehicle compartment for contraband[;] under Section 76-10-2801;  
5267            [~~(kkk)~~] (hhhh) [~~any~~] an act prohibited by the criminal provisions of the laws  
5268    governing taxation in this state; [~~and~~] or

[~~(HHH)~~] (~~iiii~~) [~~any~~] an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 141. Section **77-23a-8** is amended to read:

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

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

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

(a) [~~any~~] an act:

(i) prohibited by the criminal provisions of:

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

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

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

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

(b) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt[;] under Section 76-4-101;

(B) conspiracy[;] under Section 76-4-201;

(C) solicitation[;] under Section 76-4-203; and

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

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year[;] under Section 76-5-107.3;

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

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

5300 (iii) manslaughter[;] under Section 76-5-205;  
 5301 (f) (i) kidnapping[;] under Section 76-5-301;  
 5302 (ii) child kidnapping[;] under Section 76-5-301.1;  
 5303 (iii) aggravated kidnapping[;] under Section 76-5-302;  
 5304 (iv) human trafficking[;] for labor under Section 76-5-308[;];  
 5305 (v) human trafficking for sexual exploitation under Section 76-5-308.1[;];  
 5306 (vi) [~~or~~] human trafficking of a child under Section 76-5-308.5[;]~~or~~;  
 5307 (vii) human smuggling[;] under Section 76-5-308.3; [~~or~~]  
 5308 [~~(v)~~] (viii) aggravated human trafficking[;] under Section 76-5-310[;]; or  
 5309 (ix) aggravated human smuggling[;] under Section 76-5-310.1;  
 5310 (g) (i) arson[;] under Section 76-6-102; or  
 5311 (ii) aggravated arson[;] under Section 76-6-103;  
 5312 (h) (i) burglary[;] under Section 76-6-202; or  
 5313 (ii) aggravated burglary[;] under Section 76-6-203;  
 5314 (i) (i) robbery[;] under Section 76-6-301; or  
 5315 (ii) aggravated robbery[;] under Section 76-6-302;  
 5316 (j) an offense:  
 5317 (i) of:  
 5318 (A) theft[;] under Section 76-6-404;  
 5319 (B) theft by deception[;] under Section 76-6-405; or  
 5320 (C) theft by extortion[;] under Section 76-6-406; and  
 5321 (ii) punishable by a maximum term of imprisonment of more than one year;  
 5322 (k) an offense of receiving stolen property that is punishable by a maximum term of  
 5323 imprisonment of more than one year[;] under Section 76-6-408;  
 5324 (l) a financial card transaction offense punishable by a maximum term of imprisonment  
 5325 of more than one year[;] under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;  
 5326 (m) bribery of a labor official[;] under Section 76-6-509;  
 5327 (n) bribery or threat to influence a publicly exhibited contest[;] under Section  
 5328 76-6-514;  
 5329 (o) a criminal simulation offense punishable by a maximum term of imprisonment of  
 5330 more than one year[;] under Section 76-6-518;

5331 (p) criminal usury[;] under Section 76-6-520;

5332 (q) insurance fraud punishable by a maximum term of imprisonment of more than one

5333 year[;] under Section 76-6-521;

5334 (r) a violation [~~of~~] under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act,

5335 punishable by a maximum term of imprisonment of more than one year[;] under Section

5336 76-6-703;

5337 (s) bribery to influence official or political actions[;] under Section 76-8-103;

5338 (t) misusing public money or public property[;] under Section 76-8-402;

5339 (u) tampering with a witness [~~or soliciting or receiving a bribe,~~] under Section

5340 76-8-508;

5341 (v) retaliation against a witness, victim, or informant[;] under Section 76-8-508.3;

5342 (w) tampering [~~with a juror, retaliation~~] or retaliating against a juror[;] under Section

5343 76-8-508.5;

5344 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

5345 [~~(x)~~] (y) extortion or bribery to dismiss a criminal proceeding[;] under Section

5346 76-8-509;

5347 [~~(y)~~] (z) obstruction of justice[;] in a criminal investigation or proceeding under

5348 Section 76-8-306;

5349 (aa) harboring or concealing offender who has escaped from official custody under

5350 Section 76-8-309.2;

5351 [~~(z)~~] (bb) destruction of property to interfere with [~~preparation~~] preparations for

5352 defense or war[;] under Section 76-8-802;

5353 [~~(aa)~~] (cc) an attempt to commit crimes of sabotage[;] under Section 76-8-804;

5354 [~~(bb)~~] (dd) conspiracy to commit crimes of sabotage[;] under Section 76-8-805;

5355 [~~(cc)~~] (ee) advocating criminal syndicalism or sabotage[;] under Section 76-8-902;

5356 [~~(dd)~~] (ff) [~~assembly~~] assembling for advocating criminal syndicalism or sabotage[;]

5357 under Section 76-8-903;

5358 [~~(ee)~~] (gg) riot punishable by a maximum term of imprisonment of more than one

5359 year[;] under Section 76-9-101;

5360 [~~(ff)~~] (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions

5361 punishable by a maximum term of imprisonment of more than one year[;] under Section

5362 76-9-301.1;

5363 ~~[(gg)]~~ (ii) possession, use, or removal of an explosive, chemical, or incendiary device

5364 and parts[;] under Section 76-10-306;

5365 ~~[(hh)]~~ (jj) delivery to a common carrier or mailing of an explosive, chemical, or

5366 incendiary device[;] under Section 76-10-307;

5367 ~~[(ii)]~~ (kk) exploiting prostitution[;] under Section 76-10-1305;

5368 ~~[(jj)]~~ (ll) aggravated exploitation of prostitution[;] under Section 76-10-1306;

5369 ~~[(kk)]~~ (mm) bus hijacking or assault with intent to commit hijacking[;] under Section

5370 76-10-1504;

5371 ~~[(hh)]~~ (nn) discharging firearms and hurling missiles[;] under Section 76-10-1505;

5372 ~~[(mm)]~~ (oo) violations ~~[of]~~ under Title 76, Chapter 10, Part 16, Pattern of Unlawful

5373 Activity Act, and the offenses listed under the definition of unlawful activity in the act,

5374 including the offenses not punishable by a maximum term of imprisonment of more than one

5375 year when those offenses are investigated as predicates for the offenses prohibited by the act[;]

5376 under Section 76-10-1602;

5377 ~~[(nn)]~~ (pp) communications fraud[;] under Section 76-10-1801;

5378 ~~[(oo)]~~ (qq) money laundering[;] under Sections 76-10-1903 and 76-10-1904; or

5379 ~~[(pp)]~~ (rr) reporting by a person engaged in a trade or business when the offense is

5380 punishable by a maximum term of imprisonment of more than one year[;] under Section

5381 76-10-1906.

5382 Section 142. Section **77-36-1** is amended to read:

5383 **77-36-1. Definitions.**

5384 As used in this chapter:

5385 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

5386 (2) "Department" means the Department of Public Safety.

5387 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter

5388 3, Divorce.

5389 (4) "Domestic violence" or "domestic violence offense" means any criminal offense

5390 involving violence or physical harm or threat of violence or physical harm, or any attempt,

5391 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,

5392 when committed by one cohabitant against another. "Domestic violence" or "domestic

5393 violence offense" includes commission or attempt to commit, any of the following offenses by  
5394 one cohabitant against another:

5395 (a) aggravated assault~~[, as described in]~~ under Section 76-5-103;

5396 (b) aggravated cruelty to an animal~~[, as described in]~~ under Subsection 76-9-301(4),  
5397 with the intent to harass or threaten the other cohabitant;

5398 (c) assault~~[, as described in]~~ under Section 76-5-102;

5399 (d) criminal homicide~~[, as described in]~~ under Section 76-5-201;

5400 (e) harassment~~[, as described in]~~ under Section 76-5-106;

5401 (f) electronic communication harassment~~[, as described in]~~ under Section 76-9-201;

5402 (g) kidnapping, child kidnapping, or aggravated kidnapping~~[, as described in]~~ under  
5403 Sections 76-5-301, 76-5-301.1, and 76-5-302;

5404 (h) mayhem~~[, as described in]~~ under Section 76-5-105;

5405 (i) sexual offenses~~[, as described in]~~ under Title 76, Chapter 5, Part 4, Sexual  
5406 Offenses~~[, and]~~;

5407 (j) sexual exploitation of a minor ~~[and aggravated sexual exploitation of a minor, as~~  
5408 ~~described in Sections]~~ under Section 76-5b-201 ~~[and]~~;

5409 (k) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

5410 ~~[(f)]~~ (l) stalking~~[, as described in]~~ under Section 76-5-106.5;

5411 ~~[(k)]~~ (m) unlawful detention ~~[or and]~~ unlawful detention of a minor~~[, as described in]~~  
5412 under Section 76-5-304;

5413 ~~[(f)]~~ (n) violation of a protective order or ex parte protective order~~[, as described in]~~  
5414 under Section 76-5-108;

5415 ~~[(m)]~~ (o) ~~[any]~~ an offense against property ~~[described in]~~ under Title 76, Chapter 6,  
5416 Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or  
5417 Title 76, Chapter 6, Part 3, Robbery;

5418 ~~[(m)]~~ (p) possession of a deadly weapon with criminal intent~~[, as described in]~~ under  
5419 Section 76-10-507;

5420 ~~[(o)]~~ (q) discharge of a firearm from a vehicle, near a highway, or in the direction of  
5421 any person, building, or vehicle~~[, as described in]~~ under Section 76-10-508;

5422 ~~[(p)]~~ (r) disorderly conduct~~[, as defined in]~~ under Section 76-9-102, if a conviction or  
5423 adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator

5424 was originally charged with a domestic violence offense otherwise described in this Subsection  
5425 (4), except that a conviction or adjudication of disorderly conduct as a domestic violence  
5426 offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor  
5427 crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms  
5428 Act, 18 U.S.C. Sec. 921 et seq.;

5429 ~~[(q)]~~ (s) child abuse~~[-as described in]~~ under Section 76-5-114;

5430 ~~[(r)]~~ (t) threatening use of a dangerous weapon~~[-as described in]~~ under Section  
5431 76-10-506;

5432 ~~[(s)]~~ (u) threatening violence~~[-as described in]~~ under Section 76-5-107;

5433 ~~[(t)]~~ (v) tampering with a witness~~[-as described in]~~ under Section 76-8-508;

5434 ~~[(u)]~~ (w) retaliation against a witness ~~[or]~~, victim, ~~[as described in]~~ or informant under  
5435 Section 76-8-508.3;

5436 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

5437 ~~[(v)]~~ (y) unlawful distribution of an intimate image~~[-as described in]~~ under Section  
5438 76-5b-203~~[-or]~~;

5439 (z) unlawful distribution of a counterfeit intimate image~~[-as described in]~~ under  
5440 Section 76-5b-205;

5441 ~~[(w)]~~ (aa) sexual battery~~[-as described in]~~ under Section 76-9-702.1;

5442 ~~[(x)]~~ (bb) voyeurism~~[-as described in]~~ under Section 76-9-702.7;

5443 ~~[(y)]~~ (cc) damage to or interruption of a communication device~~[-as described in]~~ under  
5444 Section 76-6-108; or

5445 ~~[(z)]~~ (dd) an offense ~~[described in]~~ under Subsection 78B-7-806(1).

5446 (5) "Jail release agreement" means the same as that term is defined in Section  
5447 78B-7-801.

5448 (6) "Jail release court order" means the same as that term is defined in Section  
5449 78B-7-801.

5450 (7) "Marital status" means married and living together, divorced, separated, or not  
5451 married.

5452 (8) "Married and living together" means a couple whose marriage was solemnized  
5453 under Section 30-1-4 or 30-1-6 and who are living in the same residence.

5454 (9) "Not married" means any living arrangement other than married and living together,

5455 divorced, or separated.

5456 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

5457 (11) "Pretrial protective order" means a written order:

5458 (a) specifying and limiting the contact a person who has been charged with a domestic  
5459 violence offense may have with an alleged victim or other specified individuals; and

5460 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,  
5461 pending trial in the criminal case.

5462 (12) "Sentencing protective order" means a written order of the court as part of  
5463 sentencing in a domestic violence case that limits the contact an individual who is convicted or  
5464 adjudicated of a domestic violence offense may have with a victim or other specified  
5465 individuals under Section 78B-7-804.

5466 (13) "Separated" means a couple who have had their marriage solemnized under  
5467 Section 30-1-4 or 30-1-6 and who are not living in the same residence.

5468 (14) "Victim" means a cohabitant who has been subjected to domestic violence.

5469 Section 143. Section **77-36-1.1** is amended to read:

5470 **77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence**  
5471 **offenses.**

5472 (1) As used in this section:

5473 (a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

5474 (ii) "Convicted" includes:

5475 (A) a plea of guilty or guilty with a mental condition;

5476 (B) a plea of no contest; and

5477 (C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas  
5478 in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in  
5479 accordance with the plea in abeyance agreement.

5480 (iii) "Convicted" does not include an adjudication in juvenile court.

5481 (b) "Offense against the person" means commission or attempt to commit an offense  
5482 under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide,  
5483 Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital  
5484 Mutilation, by one cohabitant against another.

5485 (c) "Property damage offense" means the commission or attempt to commit an offense

5486 under Section 76-6-106 or 76-6-106.1 by one cohabitant against another.

5487 (d) "Qualifying domestic violence offense" means:

5488 (i) a domestic violence offense in Utah; or

5489 (ii) an offense in any other state, or in any district, possession, or territory of the United  
5490 States, that would be a domestic violence offense under Utah law.

5491 (2) An individual who is convicted of a domestic violence offense is guilty of a class B  
5492 misdemeanor if:

5493 (a) the domestic violence offense described in this Subsection (2) is designated by law  
5494 as a class C misdemeanor; and

5495 (b) the individual commits or is convicted of the domestic violence offense described  
5496 in this Subsection (2):

5497 (i) within 10 years after the day on which the individual is convicted of a qualifying  
5498 domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

5499 (ii) within five years after the day on which the individual is convicted of a [~~criminal~~  
5500 ~~mischief~~] property damage offense.

5501 (3) An individual who is convicted of a domestic violence offense is guilty of a class A  
5502 misdemeanor if:

5503 (a) the domestic violence offense described in this Subsection (3) is designated by law  
5504 as a class B misdemeanor; and

5505 (b) the individual commits or is convicted of the domestic violence offense described  
5506 in this Subsection (3):

5507 (i) within 10 years after the day on which the individual is convicted of a qualifying  
5508 domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

5509 (ii) within five years after the day on which the individual is convicted of a [~~criminal~~  
5510 ~~mischief~~] property damage offense.

5511 (4) An individual who is convicted of a domestic violence offense is guilty of a third  
5512 degree felony if:

5513 (a) the domestic violence offense described in this Subsection (4) is designated by law  
5514 as a class B misdemeanor offense against the person and the individual:

5515 (i) (A) commits or is convicted of the domestic violence offense described in this  
5516 Subsection (4) within 10 years after the day on which the individual is convicted of a

5517 qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense;  
5518 and

5519 (B) is convicted of another qualifying domestic violence offense that is not a [~~criminal~~  
5520 ~~mischief~~] property damage offense after the day on which the individual is convicted of the  
5521 qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on  
5522 which the individual is convicted of the domestic violence offense described in this Subsection  
5523 (4);

5524 (ii) (A) commits or is convicted of the domestic violence offense described in this  
5525 Subsection (4) within five years after the day on which the individual is convicted of a  
5526 [~~criminal mischief~~] property damage offense; and

5527 (B) is convicted of another [~~criminal mischief~~] property damage offense after the day  
5528 on which the individual is convicted of the [~~criminal mischief~~] property damage offense  
5529 described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of  
5530 the domestic violence offense described in this Subsection (4); or

5531 (iii) commits or is convicted of the domestic violence offense described in this  
5532 Subsection (4) within 10 years after the day on which the individual is convicted of a  
5533 qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense  
5534 and within five years after the day on which the individual is convicted of a [~~criminal mischief~~]  
5535 property damage offense; and

5536 (b) (i) the domestic violence offense described in this Subsection (4) is designated by  
5537 law as a class A misdemeanor; and

5538 (ii) the individual commits or is convicted of the domestic violence offense described  
5539 in this Subsection (4):

5540 (A) within 10 years after the day on which the individual is convicted of a qualifying  
5541 domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

5542 (B) within five years after the day on which the individual is convicted of a [~~criminal~~  
5543 ~~mischief~~] property damage offense.

5544 Section 144. Section 77-37-3 is amended to read:

5545 **77-37-3. Bill of rights.**

5546 (1) The bill of rights for victims and witnesses is:

5547 (a) Victims and witnesses have a right to be informed as to the level of protection from

intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding ~~[witness tampering]~~ tampering with a witness, and Section 76-8-509, regarding ~~[threats against a victim]~~ extortion or bribery to dismiss a criminal proceeding. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of

the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 53-10-802;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

**Section 145. Repealer.**

This bill repeals:

**Section 76-8-314, Threatening elected officials -- "Elected official" defined.**

**Section 76-8-315, Threatening elected officials -- Penalties for assault.**

**Section 76-8-404, Making profit from or misusing public money or public property -- Disqualification from office -- Criminal penalty.**

**Section 76-8-505, False or inconsistent statements -- Proof of falsity of statements -- Irregularities no defense.**

**Section 76-8-701, Definitions.**

5641           Section **76-8-702, Purpose.**

5642           Section **76-8-707, Assistance by local authorities.**

5643           Section **76-8-709, Enforcement of laws by local agencies not limited.**

5644           Section **76-8-716, Request for assistance from state and local law enforcement**

5645 **authorities.**

5646           Section **76-8-717, Violations -- Classifications of offenses.**

5647           Section **76-8-801, Definitions.**

5648           Section **76-8-806, Facts kept secret until complaint filed.**

5649           Section **76-8-808, Detention and arrest without warrant of unauthorized persons**

5650 **on posted premises.**

5651           Section **76-8-1101, Criminal offenses and penalties relating to revenue and**

5652 **taxation -- Rulemaking authority -- Statute of limitations.**

5653           Section **76-8-1202, Application of part.**

5654           Section **76-8-1204, Disclosure by provider required -- Penalty.**

5655           Section **76-8-1205, Public assistance fraud defined.**

5656           Section **76-8-1206, Penalties for public assistance fraud.**

5657           Section **76-8-1401, Definitions.**

5658           Section 146. **Effective date.**

5659           This bill takes effect on May 1, 2024.