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Criminal Code Recodification
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor:

LONG TITLE

General Description:

This bill

Highlighted Provisions:

This bill:

- highlight

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 53-5a-102**, as last amended by Laws of Utah 2022, Chapter 428
- 59-14-507**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 63I-1-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
- 63I-2-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
- 76-6-414**, as enacted by Laws of Utah 2024, Chapter 230
- 76-8-107**, as last amended by Laws of Utah 2024, Chapter 96
- 76-8-311.3**, as last amended by Laws of Utah 2024, Chapters 96, 99
- 76-8-411**, as last amended by Laws of Utah 2024, Chapter 96
- 76-9-101**, as last amended by Laws of Utah 2022, Chapter 181
- 76-9-102**, as last amended by Laws of Utah 2020, Chapter 394
- 76-9-103**, as enacted by Laws of Utah 1973, Chapter 196
- 76-9-104**, as enacted by Laws of Utah 1973, Chapter 196
- 76-9-105**, as last amended by Laws of Utah 2017, Chapter 462
- 76-9-106**, as enacted by Laws of Utah 1992, Chapter 163
- 76-9-107**, as enacted by Laws of Utah 2003, Chapter 186
- 76-9-108**, as enacted by Laws of Utah 2007, Chapter 46
- 76-9-109**, as enacted by Laws of Utah 2021, Chapter 174

- 32 **76-9-601**, as enacted by Laws of Utah 1973, Chapter 196
33 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96
34 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15
35 **76-9-804**, as last amended by Laws of Utah 2022, Chapter 181

36 ENACTS:

- 37 **53-5a-102.1**, Utah Code Annotated 1953
38 **53-5a-301**, Utah Code Annotated 1953
39 **59-14-501.5**, Utah Code Annotated 1953
40 **76-5-801**, Utah Code Annotated 1953
41 **76-5-803**, Utah Code Annotated 1953
42 **76-5c-201**, Utah Code Annotated 1953
43 **76-5c-203**, Utah Code Annotated 1953
44 **76-5c-206**, Utah Code Annotated 1953
45 **76-5c-212**, Utah Code Annotated 1953
46 **76-5c-213**, Utah Code Annotated 1953
47 **76-5c-307**, Utah Code Annotated 1953
48 **76-5d-201**, Utah Code Annotated 1953
49 **76-5d-204**, Utah Code Annotated 1953
50 **76-5d-205**, Utah Code Annotated 1953
51 **76-5d-210**, Utah Code Annotated 1953
52 **76-9-105.6**, Utah Code Annotated 1953
53 **76-9-114**, Utah Code Annotated 1953
54 **76-9-803.5**, Utah Code Annotated 1953
55 **76-9-803.6**, Utah Code Annotated 1953
56 **76-9-1108**, Utah Code Annotated 1953
57 **76-9-1115**, Utah Code Annotated 1953
58 **76-9-1118**, Utah Code Annotated 1953
59 **76-9-1201**, Utah Code Annotated 1953
60 **76-9-1302**, Utah Code Annotated 1953
61 **76-9-1403**, Utah Code Annotated 1953
62 **76-9-1404**, Utah Code Annotated 1953
63 **76-9-1503**, Utah Code Annotated 1953
64 **76-9-1507**, Utah Code Annotated 1953
65 **76-9-1603**, Utah Code Annotated 1953

66 **76-9-1701**, Utah Code Annotated 1953
67 **76-9-1703**, Utah Code Annotated 1953
68 **76-9-1704**, Utah Code Annotated 1953
69 **76-9-1801**, Utah Code Annotated 1953
70 **76-9-1803**, Utah Code Annotated 1953
71 **76-9-1804**, Utah Code Annotated 1953
72 **76-9-1805**, Utah Code Annotated 1953
73 **76-9-1806**, Utah Code Annotated 1953
74 **76-9-1901**, Utah Code Annotated 1953
75 **76-9-1903**, Utah Code Annotated 1953
76 **76-9-2001**, Utah Code Annotated 1953
77 **76-9-2003**, Utah Code Annotated 1953
78 **76-11-201**, Utah Code Annotated 1953
79 **76-11-301**, Utah Code Annotated 1953
80 **76-12-101**, Utah Code Annotated 1953
81 **76-12-201**, Utah Code Annotated 1953
82 **76-12-203**, Utah Code Annotated 1953
83 **76-12-204**, Utah Code Annotated 1953
84 **76-12-306**, Utah Code Annotated 1953
85 **76-12-308**, Utah Code Annotated 1953
86 **76-13-101**, Utah Code Annotated 1953
87 **76-13-201**, Utah Code Annotated 1953
88 **76-13-203**, Utah Code Annotated 1953
89 **76-13-204**, Utah Code Annotated 1953
90 **76-13-206**, Utah Code Annotated 1953
91 **76-13-210**, Utah Code Annotated 1953
92 **76-14-101**, Utah Code Annotated 1953
93 **76-15-101**, Utah Code Annotated 1953
94 **76-15-201**, Utah Code Annotated 1953
95 **76-15-207**, Utah Code Annotated 1953
96 **76-15-208**, Utah Code Annotated 1953
97 **76-15-211**, Utah Code Annotated 1953
98 **76-16-101**, Utah Code Annotated 1953
99 **76-16-210**, Utah Code Annotated 1953

100 **76-16-211**, Utah Code Annotated 1953
101 **76-16-212**, Utah Code Annotated 1953
102 **76-16-213**, Utah Code Annotated 1953
103 **76-16-214**, Utah Code Annotated 1953
104 **76-16-401**, Utah Code Annotated 1953
105 **76-17-101**, Utah Code Annotated 1953
106 **76-17-201**, Utah Code Annotated 1953

107 RENUMBERS AND AMENDS:

108 **11-48-104**, (Renumbered from 76-9-905, as enacted by Laws of Utah 2009, Chapter 86)
109 **45-2-11**, (Renumbered from 76-9-504, as enacted by Laws of Utah 1973, Chapter
110 196)
111 **45-2-12**, (Renumbered from 76-9-506, as enacted by Laws of Utah 1973, Chapter
112 196)
113 **45-2-13**, (Renumbered from 76-9-509, as enacted by Laws of Utah 1973, Chapter
114 196)
115 **53-5a-102.3**, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009,
116 Chapter 362)
117 **53-5a-105**, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993,
118 Chapter 234)
119 **53-5a-106**, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993,
120 Chapter 234)
121 **53-5a-107**, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008,
122 Chapter 3)
123 **53-5a-108**, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021,
124 Chapter 12)
125 **53-5a-302**, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023,
126 Chapters 330, 397)
127 **53-5a-303**, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023,
128 Chapter 398)
129 **53-5a-304**, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009,
130 Chapter 20)
131 **53-5a-305**, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004,
132 Chapter 360)
133 **58-37-8.1**, (Renumbered from 76-10-2204, as last amended by Laws of Utah 2023,

134 Chapter 330)
135 **58-37-8.2**, (Renumbered from 76-10-2203, as enacted by Laws of Utah 2019,
136 Chapter 97)
137 **67-5-40**, (Renumbered from 76-10-3114, as last amended by Laws of Utah 2019,
138 Chapter 348)
139 **76-5-115**, (Renumbered from 76-10-2202, as enacted by Laws of Utah 2011,
140 Chapter 204)
141 **76-5-417**, (Renumbered from 76-4-401, as last amended by Laws of Utah 2023,
142 Chapter 457)
143 **76-5-418**, (Renumbered from 76-9-702.1, as last amended by Laws of Utah 2024,
144 Chapter 234)
145 **76-5-419**, (Renumbered from 76-9-702, as last amended by Laws of Utah 2024,
146 Chapter 234)
147 **76-5-420**, (Renumbered from 76-9-702.5)
148 **76-5-802**, (Renumbered from 76-9-704, as last amended by Laws of Utah 2023,
149 Chapters 160, 330)
150 **76-5b-206**, (Renumbered from 76-10-1204.5, as last amended by Laws of Utah
151 2023, Chapter 231)
152 **76-5c-101**, (Renumbered from 76-10-1201, as last amended by Laws of Utah 2013,
153 Chapter 278)
154 **76-5c-102**, (Renumbered from 76-10-1203, as last amended by Laws of Utah 1977,
155 Chapter 92)
156 **76-5c-103**, (Renumbered from 76-10-1210, as last amended by Laws of Utah 2007,
157 Chapter 123)
158 **76-5c-104**, (Renumbered from 76-10-1209, as last amended by Laws of Utah 2010,
159 Chapter 43)
160 **76-5c-105**, (Renumbered from 76-10-1207, as enacted by Laws of Utah 1977,
161 Chapter 92)
162 **76-5c-106**, (Renumbered from 76-10-1213, as last amended by Laws of Utah 2000,
163 Chapter 53)
164 **76-5c-107**, (Renumbered from 76-10-1212, as last amended by Laws of Utah 2000,
165 Chapter 53)
166 **76-5c-108**, (Renumbered from 76-10-1215, as last amended by Laws of Utah 1993,
167 Chapter 38)

168 **76-5c-109**, (Renumbered from 76-10-1208, as last amended by Laws of Utah 2007,
169 Chapter 123)
170 **76-5c-110**, (Renumbered from 76-10-1207.5, as enacted by Laws of Utah 1990,
171 Chapter 138)
172 **76-5c-111**, (Renumbered from 76-10-1211, as last amended by Laws of Utah 1995,
173 Chapter 20)
174 **76-5c-202**, (Renumbered from 76-10-1204, as last amended by Laws of Utah 2021,
175 Chapter 260)
176 **76-5c-204**, (Renumbered from 76-10-1205, as last amended by Laws of Utah 2021,
177 Chapter 260)
178 **76-5c-205**, (Renumbered from 76-10-1206, as last amended by Laws of Utah 2021,
179 Chapter 260)
180 **76-5c-207**, (Renumbered from 76-10-1228, as last amended by Laws of Utah 2021,
181 Chapter 260)
182 **76-5c-208**, (Renumbered from 76-10-1235, as enacted by Laws of Utah 2007,
183 Chapter 79)
184 **76-5c-209**, (Renumbered from 76-10-1236, as enacted by Laws of Utah 2023,
185 Chapter 118)
186 **76-5c-210**, (Renumbered from 76-10-1237, as enacted by Laws of Utah 2023,
187 Chapter 118)
188 **76-5c-211**, (Renumbered from 76-10-1238, as enacted by Laws of Utah 2024,
189 Chapter 166)
190 **76-5c-214**, (Renumbered from 76-10-1214, as last amended by Laws of Utah 2021,
191 Chapter 260)
192 **76-5c-301**, (Renumbered from 76-10-1216, as enacted by Laws of Utah 1977,
193 Chapter 92)
194 **76-5c-302**, (Renumbered from 76-10-1217, as enacted by Laws of Utah 1977,
195 Chapter 93)
196 **76-5c-303**, (Renumbered from 76-10-1219, as last amended by Laws of Utah 2010,
197 Chapters 43, 324)
198 **76-5c-304**, (Renumbered from 76-10-1220, as last amended by Laws of Utah 2010,
199 Chapter 43)
200 **76-5c-305**, (Renumbered from 76-10-1222, as enacted by Laws of Utah 1977,
201 Chapter 93)

202 **76-5c-306**, (Renumbered from 76-10-1223, as enacted by Laws of Utah 1977,
203 Chapter 93)
204 **76-5c-401**, (Renumbered from 76-10-1230, as last amended by Laws of Utah 2018,
205 Chapter 164)
206 **76-5c-402**, (Renumbered from 76-10-1231, as last amended by Laws of Utah 2019,
207 Chapter 180)
208 **76-5c-403**, (Renumbered from 76-10-1233, as last amended by Laws of Utah 2008,
209 Chapter 297)
210 **76-5d-101**, (Renumbered from 76-10-1301, as last amended by Laws of Utah 2022,
211 Chapter 124)
212 **76-5d-102**, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991,
213 Chapter 107)
214 **76-5d-103**, (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023,
215 Chapters 184, 330)
216 **76-5d-104**, (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023,
217 Chapter 330)
218 **76-5d-105**, (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993,
219 Chapter 179)
220 **76-5d-106**, (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022,
221 Chapters 124, 181 and 335)
222 **76-5d-202**, (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023,
223 Chapter 111)
224 **76-5d-203**, (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024,
225 Chapter 140)
226 **76-5d-206**, (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018,
227 Chapter 308)
228 **76-5d-207**, (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018,
229 Chapter 308)
230 **76-5d-208**, (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022,
231 Chapter 181)
232 **76-5d-209**, (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022,
233 Chapters 124, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 124)
234 **76-5d-211**, (Renumbered from 76-10-1309, as last amended by Laws of Utah 2011,
235 Chapter 70)

236 **76-6-207**, (Renumbered from 76-10-2002, as enacted by Laws of Utah 1989,
237 Chapter 179)
238 **76-6-525**, (Renumbered from 76-10-1801, as last amended by Laws of Utah 2010,
239 Chapter 193)
240 **76-9-105.5**, (Renumbered from 76-9-202, as last amended by Laws of Utah 2024,
241 Chapter 27)
242 **76-9-110**, (Renumbered from 76-9-701, as last amended by Laws of Utah 2021,
243 Chapter 262)
244 **76-9-111**, (Renumbered from 76-9-702.3, as last amended by Laws of Utah 2016,
245 Chapter 303)
246 **76-9-112**, (Renumbered from 76-9-705, as enacted by Laws of Utah 1997, Chapter 83)
247 **76-9-113**, (Renumbered from 76-10-2402, as last amended by Laws of Utah 2010,
248 Chapter 334)
249 **76-9-602**, (Renumbered from 76-9-706, as last amended by Laws of Utah 2016,
250 Chapter 303)
251 **76-9-805**, (Renumbered from 76-9-904, as enacted by Laws of Utah 2009, Chapter 86)
252 **76-9-1101**, (Renumbered from 76-10-101, as last amended by Laws of Utah 2024,
253 Chapter 470)
254 **76-9-1102**, (Renumbered from 76-10-102, as last amended by Laws of Utah 1986,
255 Chapter 66)
256 **76-9-1103**, (Renumbered from 76-10-103, as last amended by Laws of Utah 2020,
257 Chapters 302, 347)
258 **76-9-1104**, (Renumbered from 76-10-104, as last amended by Laws of Utah 2020,
259 Chapters 302, 347)
260 **76-9-1105**, (Renumbered from 76-10-104.1, as last amended by Laws of Utah 2020,
261 Chapters 302, 347)
262 **76-9-1106**, (Renumbered from 76-10-105, as last amended by Laws of Utah 2021,
263 Chapter 262)
264 **76-9-1107**, (Renumbered from 76-10-105.1, as last amended by Laws of Utah 2021,
265 Chapter 348)
266 **76-9-1109**, (Renumbered from 76-10-105.3, as enacted by Laws of Utah 1986,
267 Chapter 188)
268 **76-9-1110**, (Renumbered from 76-10-107, as last amended by Laws of Utah 2002,
269 Chapter 23)

270 **76-9-1111**, (Renumbered from 76-10-107.5, as enacted by Laws of Utah 2002,
271 Chapter 23)
272 **76-9-1112**, (Renumbered from 76-10-111, as last amended by Laws of Utah 2020,
273 Chapters 302, 347)
274 **76-9-1113**, (Renumbered from 76-10-112, as last amended by Laws of Utah 2020,
275 Chapter 302)
276 **76-9-1114**, (Renumbered from 76-10-113, as last amended by Laws of Utah 2024,
277 Chapter 470)
278 **76-9-1116**, (Renumbered from 76-10-114, as last amended by Laws of Utah 2021,
279 First Special Session, Chapter 12)
280 **76-9-1117**, (Renumbered from 76-10-115, as last amended by Laws of Utah 2021,
281 First Special Session, Chapter 12)
282 **76-9-1119**, (Renumbered from 76-10-116, as enacted by Laws of Utah 2020, Chapter
283 302)
284 **76-9-1202**, (Renumbered from 76-10-201, as last amended by Laws of Utah 2005,
285 Chapter 215)
286 **76-9-1203**, (Renumbered from 76-10-202, as last amended by Laws of Utah 2005,
287 Chapter 215)
288 **76-9-1204**, (Renumbered from 76-10-203, as last amended by Laws of Utah 2005,
289 Chapter 215)
290 **76-9-1205**, (Renumbered from 76-10-204, as last amended by Laws of Utah 2023,
291 Chapters 111, 179)
292 **76-9-1206**, (Renumbered from 76-10-2601, as enacted by Laws of Utah 2002,
293 Chapter 166)
294 **76-9-1301**, (Renumbered from 76-10-801, as enacted by Laws of Utah 1973, Chapter
295 196)
296 **76-9-1303**, (Renumbered from 76-10-802, as enacted by Laws of Utah 1973, Chapter
297 196)
298 **76-9-1304**, (Renumbered from 76-10-805, as enacted by Laws of Utah 1973, Chapter
299 196)
300 **76-9-1305**, (Renumbered from 76-10-804, as enacted by Laws of Utah 1973, Chapter
301 196)
302 **76-9-1306**, (Renumbered from 76-10-806, as last amended by Laws of Utah 1993,
303 Chapter 227)

304 **76-9-1307**, (Renumbered from 76-10-808, as last amended by Laws of Utah 2015,
305 Chapter 258)
306 **76-9-1308**, (Renumbered from 76-10-807, as enacted by Laws of Utah 2010, Chapter
307 99)
308 **76-9-1401**, (Renumbered from 76-10-1101, as last amended by Laws of Utah 2020,
309 Chapter 291)
310 **76-9-1402**, (Renumbered from 76-10-1102, as last amended by Laws of Utah 2020,
311 Chapter 291)
312 **76-9-1405**, (Renumbered from 76-10-1104, as last amended by Laws of Utah 2020,
313 Chapter 291)
314 **76-9-1406**, (Renumbered from 76-10-1103, as last amended by Laws of Utah 2019,
315 Chapter 185)
316 **76-9-1407**, (Renumbered from 76-10-1105, as last amended by Laws of Utah 2020,
317 Chapter 291)
318 **76-9-1408**, (Renumbered from 76-10-1110, as enacted by Laws of Utah 2020,
319 Chapter 291)
320 **76-9-1409**, (Renumbered from 76-10-1104.5, as enacted by Laws of Utah 2001,
321 Chapter 182)
322 **76-9-1410**, (Renumbered from 76-10-1109, as enacted by Laws of Utah 1973,
323 Chapter 196)
324 **76-9-1411**, (Renumbered from 76-10-1112, as last amended by Laws of Utah 2023,
325 Chapter 448)
326 **76-9-1412**, (Renumbered from 76-10-1113, as enacted by Laws of Utah 2020,
327 Chapter 291)
328 **76-9-1501**, (Renumbered from 76-10-1503, as last amended by Laws of Utah 2007,
329 Chapter 329)
330 **76-9-1502**, (Renumbered from 76-10-1504, as last amended by Laws of Utah 2022,
331 Chapter 181)
332 **76-9-1504**, (Renumbered from 76-10-1505, as last amended by Laws of Utah 1999,
333 Chapter 97)
334 **76-9-1505**, (Renumbered from 76-10-1506, as last amended by Laws of Utah 2010,
335 Chapter 276)
336 **76-9-1506**, (Renumbered from 76-10-1507, as last amended by Laws of Utah 2016,
337 Chapter 399)

338 **76-9-1508**, (Renumbered from 76-10-1508, as enacted by Laws of Utah 1979,
339 Chapter 72)
340 **76-9-1509**, (Renumbered from 76-10-1509, as enacted by Laws of Utah 1979,
341 Chapter 72)
342 **76-9-1510**, (Renumbered from 76-10-1510, as last amended by Laws of Utah 2007,
343 Chapter 229)
344 **76-9-1601**, (Renumbered from 76-10-1902, as last amended by Laws of Utah 2013,
345 Chapter 73)
346 **76-9-1602**, (Renumbered from 76-10-1903, as last amended by Laws of Utah 2009,
347 Chapter 74)
348 **76-9-1604**, (Renumbered from 76-10-1906, as last amended by Laws of Utah 2008,
349 Chapter 268)
350 **76-9-1702**, (Renumbered from 76-10-2501, as last amended by Laws of Utah 2024,
351 Chapter 461)
352 **76-9-1802**, (Renumbered from 76-10-2701, as enacted by Laws of Utah 2008,
353 Chapter 22)
354 **76-9-1807**, (Renumbered from 76-10-2101, as last amended by Laws of Utah 2010,
355 Chapter 324)
356 **76-9-1902**, (Renumbered from 76-10-2801, as enacted by Laws of Utah 2008,
357 Chapter 298)
358 **76-9-2002**, (Renumbered from 76-10-2201, as last amended by Laws of Utah 2013,
359 Chapter 329)
360 **76-11-101**, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023,
361 Chapters 161, 397 and 425)
362 **76-11-102**, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990,
363 Chapter 328)
364 **76-11-202**, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023,
365 Chapter 34)
366 **76-11-203**, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021,
367 Chapter 12)
368 **76-11-204**, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024,
369 Chapters 21, 117 and 301)
370 **76-11-205**, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019,
371 Chapters 39, 201)

372 **76-11-206**, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015,
373 Chapter 406)
374 **76-11-207**, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023,
375 Chapter 34)
376 **76-11-208**, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023,
377 Chapter 34)
378 **76-11-209**, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024,
379 Chapter 301)
380 **76-11-210**, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013,
381 Chapter 301)
382 **76-11-211**, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000,
383 Chapter 303)
384 **76-11-212**, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024,
385 Chapter 301)
386 **76-11-213**, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993,
387 Second Special Session, Chapter 13)
388 **76-11-214**, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023,
389 Chapters 330, 386)
390 **76-11-215**, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024,
391 Chapter 332)
392 **76-11-216**, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009,
393 Chapter 388)
394 **76-11-302**, (Renumbered from 76-10-503, as last amended by Laws of Utah 2023,
395 First Special Session, Chapter 2)
396 **76-11-309**, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023,
397 Chapter 203)
398 **76-11-310**, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023,
399 Chapter 425)
400 **76-12-202**, (Renumbered from 76-9-201, as last amended by Laws of Utah 2024,
401 Chapter 224)
402 **76-12-205**, (Renumbered from 76-6-703.1, as enacted by Laws of Utah 2023, Chapter
403 111)
404 **76-12-206**, (Renumbered from 76-9-203, as enacted by Laws of Utah 2021, Chapter
405 152)

406 **76-12-207**, (Renumbered from 76-10-1802, as enacted by Laws of Utah 2015,
407 Chapter 151)
408 **76-12-301**, (Renumbered from 76-9-401, as enacted by Laws of Utah 1973, Chapter
409 196)
410 **76-12-302**, (Renumbered from 76-9-402, as last amended by Laws of Utah 2023,
411 Chapter 510)
412 **76-12-303**, (Renumbered from 76-9-403, as enacted by Laws of Utah 1973, Chapter
413 196)
414 **76-12-304**, (Renumbered from 76-9-407, as enacted by Laws of Utah 1999, Chapter
415 146)
416 **76-12-305**, (Renumbered from 76-9-408, as enacted by Laws of Utah 2019, Chapter
417 372)
418 **76-12-307**, (Renumbered from 76-9-702.7)
419 **76-12-309**, (Renumbered from 76-9-702.8)
420 **76-12-401**, (Renumbered from 76-10-601, as enacted by Laws of Utah 1973, Chapter
421 196)
422 **76-12-402**, (Renumbered from 76-10-602, as enacted by Laws of Utah 1973, Chapter
423 196)
424 **76-12-403**, (Renumbered from 76-10-603, as last amended by Laws of Utah 1995,
425 Chapter 20)
426 **76-13-102**, (Renumbered from 76-9-305, as last amended by Laws of Utah 1977,
427 Chapter 87)
428 **76-13-103**, (Renumbered from 76-9-301.6, as last amended by Laws of Utah 2008,
429 Chapter 292)
430 **76-13-104**, (Renumbered from 76-9-301.7, as last amended by Laws of Utah 2008,
431 Chapter 292)
432 **76-13-202**, (Renumbered from 76-9-301, as last amended by Laws of Utah 2023,
433 Chapter 34)
434 **76-13-205**, (Renumbered from 76-9-301.1, as last amended by Laws of Utah 2010,
435 Chapter 324)
436 **76-13-207**, (Renumbered from 76-9-301.3, as enacted by Laws of Utah 2015, Chapter
437 329)
438 **76-13-208**, (Renumbered from 76-9-301.5, as last amended by Laws of Utah 2008,
439 Chapter 292)

440 **76-13-209**, (Renumbered from 76-9-306, as last amended by Laws of Utah 2018,
441 Chapter 264)
442 **76-13-211**, (Renumbered from 76-9-307, as last amended by Laws of Utah 2023,
443 Chapter 330)
444 **76-13-212**, (Renumbered from 76-9-304, as last amended by Laws of Utah 1977,
445 Chapter 87)
446 **76-13-213**, (Renumbered from 76-9-301.8, as last amended by Laws of Utah 1999,
447 Chapter 302)
448 **76-13-214**, (Renumbered from 76-9-308, as last amended by Laws of Utah 2023,
449 Chapter 216)
450 **76-13-215**, (Renumbered from 76-9-301.9, as enacted by Laws of Utah 2024, Chapter
451 82)
452 **76-14-201**, (Renumbered from 76-9-1002, as enacted by Laws of Utah 2011, Chapter
453 21)
454 **76-14-202**, (Renumbered from 76-9-1003, as last amended by Laws of Utah 2022,
455 Chapter 181)
456 **76-14-203**, (Renumbered from 76-9-1004, as enacted by Laws of Utah 2011, Chapter
457 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)
458 **76-14-204**, (Renumbered from 76-9-1005, as enacted by Laws of Utah 2011, Chapter
459 21)
460 **76-14-205**, (Renumbered from 76-9-1006, as enacted by Laws of Utah 2011, Chapter
461 21)
462 **76-14-206**, (Renumbered from 76-9-1007, as last amended by Laws of Utah 2018,
463 Third Special Session, Chapter 2)
464 **76-14-207**, (Renumbered from 76-9-1008, as last amended by Laws of Utah 2024,
465 Chapter 96)
466 **76-14-208**, (Renumbered from 76-9-1009, as enacted by Laws of Utah 2011, Chapter
467 21)
468 **76-14-209**, (Renumbered from 76-10-2901, as last amended by Laws of Utah 2011,
469 Chapters 18, 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)
470 **76-15-202**, (Renumbered from 76-10-308, as repealed and reenacted by Laws of Utah
471 1993, Chapter 75)
472 **76-15-203**, (Renumbered from 76-10-302, as enacted by Laws of Utah 1973, Chapter
473 196)

474 **76-15-204**, (Renumbered from 76-10-303, as enacted by Laws of Utah 1973, Chapter
475 196)
476 **76-15-205**, (Renumbered from 76-10-304, as enacted by Laws of Utah 1973, Chapter
477 196)
478 **76-15-206**, (Renumbered from 76-10-305, as enacted by Laws of Utah 1973, Chapter
479 196)
480 **76-15-209**, (Renumbered from 76-10-307, as last amended by Laws of Utah 1999,
481 Chapter 97)
482 **76-15-210**, (Renumbered from 76-10-306, as last amended by Laws of Utah 2024,
483 Chapter 343)
484 **76-15-301**, (Renumbered from 76-10-401, as repealed and reenacted by Laws of Utah
485 2002, Chapter 166)
486 **76-15-302**, (Renumbered from 76-10-402, as enacted by Laws of Utah 2002, Chapter
487 166)
488 **76-15-303**, (Renumbered from 76-10-403, as enacted by Laws of Utah 2002, Chapter
489 166)
490 **76-16-201**, (Renumbered from 76-10-701, as enacted by Laws of Utah 1973, Chapter
491 196)
492 **76-16-202**, (Renumbered from 76-10-709, as last amended by Laws of Utah 1995,
493 Chapter 20)
494 **76-16-203**, (Renumbered from 76-10-710, as enacted by Laws of Utah 1973, Chapter
495 196)
496 **76-16-204**, (Renumbered from 76-10-711, as last amended by Laws of Utah 1995,
497 Chapter 20)
498 **76-16-205**, (Renumbered from 76-10-702, as enacted by Laws of Utah 1973, Chapter
499 196)
500 **76-16-206**, (Renumbered from 76-10-703, as enacted by Laws of Utah 1973, Chapter
501 196)
502 **76-16-207**, (Renumbered from 76-10-704, as enacted by Laws of Utah 1973, Chapter
503 196)
504 **76-16-208**, (Renumbered from 76-10-705, as last amended by Laws of Utah 1992,
505 Third Special Session, Chapter 6)
506 **76-16-209**, (Renumbered from 76-10-706, as enacted by Laws of Utah 1973, Chapter
507 196)

508 **76-16-215**, (Renumbered from 76-10-707, as enacted by Laws of Utah 1973, Chapter
509 196)
510 **76-16-216**, (Renumbered from 76-10-708, as enacted by Laws of Utah 1973, Chapter
511 196)
512 **76-16-301**, (Renumbered from 76-10-1001, as last amended by Laws of Utah 1984,
513 Chapter 66)
514 **76-16-302**, (Renumbered from 76-10-1002, as last amended by Laws of Utah 1984,
515 Chapter 66)
516 **76-16-303**, (Renumbered from 76-10-1003, as last amended by Laws of Utah 1984,
517 Chapter 66)
518 **76-16-304**, (Renumbered from 76-10-1004, as enacted by Laws of Utah 1973,
519 Chapter 196)
520 **76-16-305**, (Renumbered from 76-10-1005, as last amended by Laws of Utah 1995,
521 Chapter 20)
522 **76-16-306**, (Renumbered from 76-10-1006, as enacted by Laws of Utah 1973,
523 Chapter 196)
524 **76-16-307**, (Renumbered from 76-10-1007, as enacted by Laws of Utah 1973,
525 Chapter 196)
526 **76-16-402**, (Renumbered from 76-10-3002, as renumbered and amended by Laws of
527 Utah 2013, Chapter 187)
528 **76-16-403**, (Renumbered from 76-10-3001, as renumbered and amended by Laws of
529 Utah 2013, Chapter 187)
530 **76-16-404**, (Renumbered from 76-10-3005, as renumbered and amended by Laws of
531 Utah 2013, Chapter 187)
532 **76-16-501**, (Renumbered from 76-10-3103, as last amended by Laws of Utah 2015,
533 Chapter 140)
534 **76-16-502**, (Renumbered from 76-10-3102, as renumbered and amended by Laws of
535 Utah 2013, Chapter 187)
536 **76-16-503**, (Renumbered from 76-10-3117, as renumbered and amended by Laws of
537 Utah 2013, Chapter 187)
538 **76-16-504**, (Renumbered from 76-10-3105, as last amended by Laws of Utah 2024,
539 Chapter 147)
540 **76-16-505**, (Renumbered from 76-10-3106, as renumbered and amended by Laws of
541 Utah 2013, Chapter 187)

542 **76-16-506**, (Renumbered from 76-10-3107, as last amended by Laws of Utah 2015,
543 Chapter 140)
544 **76-16-507**, (Renumbered from 76-10-3116, as renumbered and amended by Laws of
545 Utah 2013, Chapter 187)
546 **76-16-508**, (Renumbered from 76-10-3115, as renumbered and amended by Laws of
547 Utah 2013, Chapter 187)
548 **76-16-509**, (Renumbered from 76-10-3108, as last amended by Laws of Utah 2019,
549 Chapter 348)
550 **76-16-510**, (Renumbered from 76-10-3104, as renumbered and amended by Laws of
551 Utah 2013, Chapter 187)
552 **76-16-511**, (Renumbered from 76-10-3109, as last amended by Laws of Utah 2019,
553 Chapter 348)
554 **76-16-512**, (Renumbered from 76-10-3112, as last amended by Laws of Utah 2013,
555 Chapter 285 and renumbered and amended by Laws of Utah 2013, Chapter 187)
556 **76-17-202**, (Renumbered from 76-10-3201, as last amended by Laws of Utah 2023,
557 Chapters 515, 536)
558 **76-17-301**, (Renumbered from 76-6a-101, as renumbered and amended by Laws of
559 Utah 2023, Chapter 111)
560 **76-17-302**, (Renumbered from 76-6a-104, as renumbered and amended by Laws of
561 Utah 2023, Chapter 111)
562 **76-17-303**, (Renumbered from 76-6a-102, as enacted by Laws of Utah 2023, Chapter
563 111)
564 **76-17-304**, (Renumbered from 76-6a-103, as enacted by Laws of Utah 2023, Chapter
565 111)
566 **76-17-401**, (Renumbered from 76-10-1602, as last amended by Laws of Utah 2024,
567 Chapter 96)
568 **76-17-402**, (Renumbered from 76-10-1604, as enacted by Laws of Utah 1981,
569 Chapter 94)
570 **76-17-403**, (Renumbered from 76-10-1605, as last amended by Laws of Utah 2024,
571 Chapter 158)
572 **76-17-404**, (Renumbered from 76-10-1607, as enacted by Laws of Utah 1981,
573 Chapter 94)
574 **76-17-405**, (Renumbered from 76-10-1609, as enacted by Laws of Utah 1987,
575 Chapter 238)

576 **76-17-406**, (Renumbered from 76-10-1608, as last amended by Laws of Utah 1987,
577 Chapter 238)
578 **76-17-407**, (Renumbered from 76-10-1603, as repealed and reenacted by Laws of
579 Utah 1987, Chapter 238)
580 **77-7-28**, (Renumbered from 76-9-903, as enacted by Laws of Utah 2009, Chapter 86)
581 REPEALS:
582 **76-5b-101**, as enacted by Laws of Utah 2011, Chapter 320
583 **76-9-406**, as enacted by Laws of Utah 1973, Chapter 196
584 **76-9-505**, as enacted by Laws of Utah 1973, Chapter 196
585 **76-9-801**, as enacted by Laws of Utah 2008, Chapter 15
586 **76-9-901**, as enacted by Laws of Utah 2009, Chapter 86
587 **76-9-902**, as last amended by Laws of Utah 2024, Chapter 96
588 **76-9-906**, as enacted by Laws of Utah 2009, Chapter 86
589 **76-9-907**, as last amended by Laws of Utah 2018, Chapter 200
590 **76-9-1001**, as enacted by Laws of Utah 2011, Chapter 21
591 **76-10-404**, as enacted by Laws of Utah 2002, Chapter 166
592 **76-10-405**, as enacted by Laws of Utah 2002, Chapter 166
593 **76-10-500**, as last amended by Laws of Utah 2022, Chapter 428
594 **76-10-512**, as last amended by Laws of Utah 2024, Chapter 301
595 **76-10-521**, as last amended by Laws of Utah 1993, Chapter 234
596 **76-10-604**, as last amended by Laws of Utah 1995, Chapter 20
597 **76-10-803**, as last amended by Laws of Utah 2019, Chapters 81, 227
598 **76-10-1008**, as last amended by Laws of Utah 1995, Chapter 20
599 **76-10-1009**, as enacted by Laws of Utah 1973, Chapter 196
600 **76-10-1010**, as enacted by Laws of Utah 1973, Chapter 196
601 **76-10-1101.5**, as enacted by Laws of Utah 2020, Chapter 291
602 **76-10-1106**, as last amended by Laws of Utah 1990, Chapter 118
603 **76-10-1108**, as last amended by Laws of Utah 2023, Chapter 448
604 **76-10-1218**, as enacted by Laws of Utah 1977, Chapter 93
605 **76-10-1221**, as last amended by Laws of Utah 2010, Chapter 43
606 **76-10-1224**, as enacted by Laws of Utah 1977, Chapter 93
607 **76-10-1225**, as last amended by Laws of Utah 1993, Chapter 38
608 **76-10-1226**, as last amended by Laws of Utah 1990, Chapter 138
609 **76-10-1227**, as last amended by Laws of Utah 2007, Chapter 123

610 **76-10-1229.5**, as enacted by Laws of Utah 1995, Chapter 131
 611 **76-10-1234**, as last amended by Laws of Utah 2008, Chapter 382
 612 **76-10-1308**, as enacted by Laws of Utah 1991, Chapter 107
 613 **76-10-1310**, as last amended by Laws of Utah 2011, Chapter 70
 614 **76-10-1501**, as enacted by Laws of Utah 1979, Chapter 72
 615 **76-10-1502**, as enacted by Laws of Utah 1979, Chapter 72
 616 **76-10-1511**, as enacted by Laws of Utah 1979, Chapter 72
 617 **76-10-1601**, as last amended by Laws of Utah 1987, Chapter 238
 618 **76-10-1603.5**, as last amended by Laws of Utah 2013, Chapter 394
 619 **76-10-1901**, as enacted by Laws of Utah 1989, Chapter 241
 620 **76-10-1904**, as last amended by Laws of Utah 1996, Chapter 17
 621 **76-10-1907**, as enacted by Laws of Utah 1989, Chapter 241
 622 **76-10-2001**, as enacted by Laws of Utah 1989, Chapter 179
 623 **76-10-2401**, as last amended by Laws of Utah 2002, Chapter 31
 624 **76-10-2702**, as enacted by Laws of Utah 2008, Chapter 22
 625 **76-10-3003**, as renumbered and amended by Laws of Utah 2013, Chapter 187
 626 **76-10-3004**, as renumbered and amended by Laws of Utah 2013, Chapter 187
 627 **76-10-3101**, as renumbered and amended by Laws of Utah 2013, Chapter 187
 628 **76-10-3113**, as renumbered and amended by Laws of Utah 2013, Chapter 187
 629 **76-10-3118**, as renumbered and amended by Laws of Utah 2013, Chapter 187

630

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

632 Section 1. Section **11-48-104**, which is renumbered from Section 76-9-905 is renumbered
 633 and amended to read:

634

CHAPTER 48. EMERGENCY RESPONSE AND PREVENTION

635 **[76-9-905]11-48-104 . Designation of public places where orders to disperse are authorized**
 636 **and gang**

636 **loitering is prohibited.**

637 (1) As used in this section:

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

639 (b) "Gang loitering" means the same as that term is defined in Section 76-9-802.

640 (c) "Public place" means the same as that term is defined in Section 76-9-802.

641 [(1)] (2) ~~[Municipal and county legislative bodies shall, within their respective jurisdictions,~~

642 ~~designate the areas within their jurisdictions that] [they have determined are-] A~~
 643 municipal or county legislative body shall designate public places within the municipal
 644 or county jurisdiction as areas where gang loitering is prohibited and subject to [the-]
 645 enforcement[-of] by law enforcement officers as described in Section [76-9-903]
 646 77-7-28 and to criminal penalties under Section 76-9-805 [because] if criminal street
 647 gangs have been able to, or are attempting to:

- 648 (a) establish control over [~~these identifiable~~] the areas;
- 649 (b) intimidate [~~others~~] other individuals from entering [~~those~~] the areas; or
- 650 (c) conceal illegal activities conducted in [~~those~~] the areas.

651 [~~(2)~~] (3)(a) [~~Prior to designating areas subject to enforcement under Section 76-9-903,~~
 652 ~~the-] Before a legislative body designates a public place as an area where gang~~
 653 loitering is prohibited, the legislative body shall consult, as appropriate, with [persons]
 654 individuals who are knowledgeable about the effects of gang activity in [areas where
 655 Section 76-9-903 may be enforced] the area.

- 656 (b) [~~Persons-] Individuals~~ consulted under Subsection [~~(2)(a)~~] (3)(a) may include:
 - 657 (i) members of local law enforcement agencies who have training or experience
 - 658 related to criminal street gangs;
 - 659 (ii) other agency personnel with particular knowledge of gang activities in the
 - 660 proposed designated area;
 - 661 (iii) elected and appointed officials of the area where the proposed designated area is
 - 662 located; and
 - 663 (iv) representatives of community-based organizations.

664 [~~(3)~~] (4) The municipal or county legislative body shall develop and implement procedures
 665 for periodic review and update of area designations [~~it makes~~] made under Subsection [
 666 (1)] (2).

667 (5) This section does not affect or limit an individual's constitutional right to engage in
 668 collective advocacy activities that are protected by the constitution or laws of this state
 669 or by the constitution or laws of the United States.

670 Section 2. Section **45-2-11**, which is renumbered from Section 76-9-504 is renumbered
 671 and amended to read:

672 **[76-9-504] 45-2-11 . Fair reporting privilege of newspaper or broadcasting**
 673 **station personnel as to public official proceedings -- Privilege as to defamatory**
 674 **matter not subject to censorship.**

675 [No reporter, editor, or proprietor of any newspaper, and no owner, licensee, or

676 operator of a visual or sound radio broadcasting station, or network of stations, nor the
677 agents or employees of a newspaper or broadcasting station, is liable to any prosecution
678 for a fair and true report or broadcast of any judicial, legislative, or other public official
679 proceedings, or of any statement, speech, argument, or debate in course of the same,
680 except upon proof of malice in making the report, which shall not be implied from the
681 mere fact of publication. In no event shall any owner, licensee, or operator of a visual or
682 sound radio broadcasting station or network of stations, or the agents or employees
683 thereof, be liable for prosecution for any defamatory matter or statement published or
684 uttered in such radio or television broadcast where the publication cannot be censored by
685 reason of the provisions of federal statute or the regulations of the federal
686 communications commission.]

- 687 (1) Except as provided in Subsection (2), the following persons may not be prosecuted for a
688 fair and true report or broadcast of a judicial, legislative, or other public official
689 proceeding, or of a statement, speech, argument, or debate related to the judicial,
690 legislative, or other public official proceeding:
- 691 (a) a reporter, editor, or proprietor of a newspaper;
692 (b) an owner, a licensee, or an operator of a visual sound radio broadcasting station or
693 network of stations; or
694 (c) an agent or employee of a newspaper or broadcasting station.
- 695 (2) Notwithstanding Subsection (1), a person listed in Subsection (1)(a), (b), and (c) may be
696 prosecuted for making a report described in Subsection (1) if there is proof the person
697 acted with malice in making the report, which may not be implied from the mere fact of
698 publication.
- 699 (3) An owner, licensee, or operator of a visual or sound radio broadcasting station or
700 network of stations, or an agent or employee of a sound radio broadcasting station or
701 network of stations, may not be prosecuted for a defamatory matter or statement
702 published or uttered in a radio or television broadcast if the publication cannot be
703 censored by reason of the provisions of a federal statute or a regulation issued by the
704 Federal Communications Commission.

705 Section 3. Section **45-2-12**, which is renumbered from Section 76-9-506 is renumbered
706 and amended to read:

707 **[76-9-506] 45-2-12 . Privilege as to communications between interested persons.**

- 708 (1) A communication made to a person interested in the communication by one who is
709 also interested, or who stands in a relation to the former as to afford a reasonable ground

710 for supposing his motive innocent, is not presumed to be malicious, and is a privileged
711 communication.

712 (2) Libelous remarks or comments connected with a matter privileged by Subsection (1)
713 receive no privilege by reason of the libelous remarks or comments being so connected.

714 Section 4. Section **45-2-13**, which is renumbered from Section 76-9-509 is renumbered
715 and amended to read:

716 ~~[76-9-509]~~ **45-2-13 . Conveying false or libelous material to newspaper or**
717 **broadcasting stations.**

718 [~~Any~~] A person who willfully states, conveys, delivers, or transmits, by any
719 means[~~whatsoever~~], to the manager, editor, publisher, reporter, or agent of any radio
720 station, television station, newspaper, magazine, periodical, or serial for publication[
721 ~~therein~~], any false or libelous statement concerning any person, and thereby secures
722 actual publication[~~of the same~~], is guilty of a class B misdemeanor.

723 Section 5. Section **53-5a-102** is amended to read:

724

CHAPTER 5a. FIREARMS LAWS

725

Part 1. General Firearms Laws

726 **53-5a-102 . Uniform firearm laws.**

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

728 [~~(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.]~~

729 [~~(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.]~~

730 [~~(c) "Firearm" means:~~]

731 [~~(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or~~

732 ~~a device that could be used as a dangerous weapon from which is expelled a projectile~~

733 ~~by action of an explosive;]~~

734 [~~(ii) ammunition; and]~~

735 [~~(iii) a firearm accessory.]~~

736 [~~(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.]~~

737 [~~(e) "Local or state governmental entity" means the same as that term is defined in Section~~

738 ~~78B-6-2301.]~~

739 [~~(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is~~

740 ~~defined in Section 76-10-501.]~~

741 [~~(g) "Shotgun" means the same as that term is defined in Section 76-10-501.]~~

742 [~~(2)~~] (1) The individual right to keep and bear arms being a constitutionally protected right

743 under Article I, Section 6 of the Utah Constitution and the Second Amendment to the
744 United States Constitution, the Legislature finds the need to provide uniform civil and
745 criminal firearm laws throughout the state and declares that the Legislature occupies the
746 whole field of state regulation of firearms.

747 ~~[(3)]~~ (2) Except as specifically provided by state law, a local or state governmental entity
748 may not:

- 749 (a) prohibit an individual from owning, possessing, purchasing, selling, transferring,
750 transporting, or keeping a firearm, ammunition, or a firearm accessory at the
751 individual's place of residence, property, business, or in any vehicle lawfully in the
752 individual's possession or lawfully under the individual's control; or
753 (b) require an individual to have a permit or license to purchase, own, possess, transport,
754 or keep a firearm, ammunition, or a firearm accessory.

755 ~~[(4)]~~ (3) ~~[In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is]~~ This part
756 and Title 76, Chapter 11, Weapons are uniformly applicable throughout [this] the state
757 and in all the [state's-]political subdivisions of the state.

758 ~~[(5)]~~ (4) Authority to regulate firearms is reserved to the state except where the Legislature
759 specifically delegates responsibility to local or state governmental entities.

760 ~~[(6)]~~ (5) Unless specifically authorized by the Legislature by statute, a local or state
761 governmental entity may not enact, establish, or enforce ~~[any ordinance, regulation, rule,~~
762 ~~or policy]~~ a directive pertaining to firearms, ammunition, or firearm accessories that in
763 any way inhibits or restricts the possession, ownership, purchase, sale, transfer,
764 transport, or use of firearms, ammunition, or firearm accessories on either public or
765 private property.

766 ~~[(7)]~~ (6) This section does not restrict or expand private property rights.

767 ~~[(8)]~~ (7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm
768 Preemption Enforcement Act.

769 Section 6. Section **53-5a-102.1** is enacted to read:

770 **53-5a-102.1 . Definitions.**

771 As used in this part:

772 (1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

773 (2)(a) "Antique firearm" means:

774 (i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or
775 similar type of ignition system, manufactured in or before 1898;

776 (ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the

- 777 replica:
- 778 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
- 779 ammunition; or
- 780 (B) uses rimfire or centerfire fixed ammunition which is no longer manufactured
- 781 in the United States and is not readily available in ordinary channels of
- 782 commercial trade; or
- 783 (iii) a firearm that:
- 784 (A) is a muzzle-loading rifle, shotgun, or pistol;
- 785 (B) is designed to use black powder, or a black powder substitute; and
- 786 (C) cannot use fixed ammunition.
- 787 (b) "Antique firearm" does not include:
- 788 (i) a weapon that incorporates a firearm frame or receiver;
- 789 (ii) a firearm that is converted into a muzzle-loading weapon; or
- 790 (iii) a muzzle-loading weapon that can be readily converted to fire fixed ammunition
- 791 by replacing the:
- 792 (A) barrel;
- 793 (B) bolt;
- 794 (C) breechblock; or
- 795 (D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).
- 796 (3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
- 797 within the department.
- 798 (4)(a) "Concealed firearm" means a firearm that is:
- 799 (i) covered, hidden, or secreted in a manner that the public would not be aware of the
- 800 firearm's presence; and
- 801 (ii) readily accessible for immediate use.
- 802 (b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.
- 803 (5) "Court commissioner" means an individual appointed under Section 78A-5-107.
- 804 (6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 805 (7) "Directive" means the same as that term is defined in Section 78B-6-2301.
- 806 (8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short
- 807 barreled rifle, or a device that could be used as a dangerous weapon from which is
- 808 expelled a projectile by action of an explosive.
- 809 (9) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.
- 810 (10) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or

811 unloaded, from which a shot, bullet, or other missile can be discharged, the length of
812 which, not including any revolving, detachable, or magazine breech, does not exceed 12
813 inches.

814 (11) "Judge" means the same as that term is defined in Section 53-5-711.

815 (12) "Local or state governmental entity" means the same as that term is defined in Section
816 78B-6-2301.

817 (13) "Readily accessible for immediate use" means that a firearm or other dangerous
818 weapon is carried on the person or within such close proximity and in such a manner
819 that the weapon can be retrieved and used as readily as if carried on the person.

820 (14) "Residence" means an improvement to real property used or occupied as a primary or
821 secondary residence.

822 (15) "Securely encased" means not readily accessible for immediate use, such as held in a
823 gun rack or in a closed case or container, whether or not locked, or in a trunk or other
824 storage area of a motor vehicle, not including a glove box or console box.

825 (16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-301.

826 (17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-301.

827 (18) "Shotgun" means the same as that term is defined in Section 53-5a-301.

828 (19) "Slug" means the same as that term is defined in Section 53-5a-301.

829 Section 7. Section **53-5a-102.3**, which is renumbered from Section 76-10-511 is renumbered
830 and amended to read:

831 **[76-10-511]53-5a-102.3 . Possession of a loaded firearm at a residence or on real**
832 **property authorized.**

833 Except for persons described in Section [76-10-503] 76-11-302 and 18 U.S.C. Sec.
834 922(g) and as otherwise prescribed in this part, [a person] an individual may have a
835 loaded firearm:

836 (1) at the [person's] individual's place of residence, including any temporary residence or
837 camp; or

838 (2) on the [person's] individual's real property.

839 Section 8. Section **53-5a-105**, which is renumbered from Section 76-10-520 is renumbered
840 and amended to read:

841 **[76-10-520]53-5a-105 . Number or mark assigned to a handgun by the**
842 **department.**

843 (1) The [Department of Public Safety] department upon request may assign a
844 distinguishing number or mark of identification to [any pistol or revolver] a handgun

845 whenever it is without a manufacturer's number, or other mark of identification or
846 whenever the manufacturer's number or other mark of identification or the
847 distinguishing number or mark assigned by the [~~Department of Public Safety~~] department
848 has been destroyed or obliterated.

849 (2) Except as provided in Subsection (3), an individual who places or stamps a number on a
850 handgun except one assigned to the handgun by the department is guilty of a class A
851 misdemeanor.

852 (3) This section does not:

853 (a) prohibit restoration by the owner of the name of the maker, model, or of the original
854 manufacturer's number or other mark of identification when the restoration is
855 authorized by the department;

856 (b) prohibit a manufacturer from placing in the ordinary course of business the name of
857 the make, model, manufacturer's number, or other mark of identification upon a new
858 handgun; or

859 (c) apply to a handgun that is an antique firearm.

860 Section 9. Section **53-5a-106**, which is renumbered from Section 76-10-522 is renumbered
861 and amended to read:

862 **[76-10-522] 53-5a-106 . Alteration of number or mark on pistol or revolver.**

863 (1) [~~Any person who changes, alters, removes, or obliterates-~~] An individual may not
864 change, alter, remove, or obliterate the name of the maker, the model, manufacturer's
865 number, or other mark of identification, including any distinguishing number or mark
866 assigned by the [~~Department of Public Safety~~] department, on [~~any pistol or revolver~~] a
867 handgun, without first having secured written permission from the [~~Department of~~
868 ~~Public Safety~~] department to make the change, alteration, [~~or~~]removal, [~~is guilty of a~~
869 ~~class A misdemeanor~~] or obliteration.

870 (2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A
871 misdemeanor.

872 (3) This section does not apply to a handgun that is an antique firearm.

873 Section 10. Section **53-5a-107**, which is renumbered from Section 76-10-523.5 is renumbered
874 and amended to read:

875 **[76-10-523.5] 53-5a-107 . Compliance with rules for secure facilities.**

876 [~~Any person~~] An individual, including [~~a person~~] an individual licensed to carry a
877 concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, shall
878 comply with any rule established [~~for secure facilities~~] by a secure facility pursuant to

879 Sections 53B-3-103, 76-8-311.1, 76-8-311.3, and 78A-2-203 and ~~[shall be]~~ is subject to
880 any penalty provided in those sections.

881 Section 11. Section **53-5a-108**, which is renumbered from Section 76-10-523 is renumbered
882 and amended to read:

883 ~~[76-10-523]~~ **53-5a-108 . Persons exempt from weapons laws.**

884 (1) Except for Sections ~~[76-10-506, 76-10-508, and 76-10-508.1, this part]~~ 76-11-205,
885 76-11-207, and 76-11-208, this part, Title 76, Chapter 11, Weapons, and Title 53,
886 Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

- 887 (a) a United States marshal;
888 (b) a federal official required to carry a firearm;
889 (c) a peace officer of this or any other jurisdiction;
890 (d) a law enforcement official as defined and qualified under Section 53-5-711;
891 (e) a judge as defined and qualified under Section 53-5-711;
892 (f) a court commissioner as defined and qualified under Section 53-5-711; or
893 (g) a common carrier while engaged in the regular and ordinary transport of firearms as
894 merchandise.

895 (2) Notwithstanding Subsection (1), the provisions of Section ~~[76-10-528]~~ 76-11-214 apply
896 to any individual listed in Subsection (1) who is not employed by a state or federal
897 agency or political subdivision that has adopted a policy or rule regarding the use of
898 dangerous weapons.

899 (3) Subsections ~~[76-10-504(1) and (2), and Section 76-10-505]~~ 76-11-202(2), (3)(a), and
900 (3)(b), and Section 76-11-203 do not apply to:

- 901 (a) an individual to whom a permit to carry a concealed firearm has been issued:
902 (i) pursuant to Section 53-5-704; or
903 (ii) by another state or county; or
904 (b) ~~[a person]~~ an individual who is issued a protective order under Subsection
905 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the ~~[person]~~ individual is a restricted
906 person as described in Subsection ~~[76-10-503(1)]~~ 76-11-302(1), for a period of 120
907 days after the day on which the ~~[person]~~ individual is issued the protective order.

908 (4) Except for Sections ~~[76-10-503, 76-10-506, 76-10-508, and 76-10-508.1]~~ 76-11-205,
909 76-11-207, 76-11-208 and 76-11-302, this part, Title 76, Chapter 11, Weapons, and Title
910 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in
911 or through the state, provided that any firearm is:

- 912 (a) unloaded; and

913 (b) securely encased[as defined in Section 76-10-501].
914 (5) Subsections [76-10-504(1) and (2), and 76-10-505(1)(b)] 76-11-202(2), (3)(a), and
915 (3)(b), and 76-11-203(2)(b) do not apply to [a person] an individual 21 years old or older
916 who may otherwise lawfully possess a firearm.

917 Section 12. Section **53-5a-301** is enacted to read:

918

Part 3. Sale and Purchase of a Firearm

53-5a-301 . Definitions.

920 As used in this part:

- 921 (1) "Antique firearm" means the same as that term is defined in Section 53-5a-102.1.
922 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
923 within the department.
924 (3) "Criminal history background check" means a criminal background check conducted
925 through the bureau or a local law enforcement agency.
926 (4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
927 (5) "Dealer" means a person who is:
928 (a) licensed under 18 U.S.C. Sec. 923; and
929 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,
930 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.
931 (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.
932 (7) "Federal Firearms Licensee" means a person who:
933 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and
934 (b) is engaged in the activities authorized by the specific category of license held by the
935 person.
936 (8)(a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short
937 barreled rifle, or a device that could be used as a dangerous weapon from which is
938 expelled a projectile by action of an explosive.
939 (b) "Firearm" does not include an antique firearm.
940 (9)(a) "Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16
941 inches in length.
942 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,
943 modification, or otherwise, if the weapon as modified has an overall length of fewer
944 than 26 inches.
945 (10)(a) "Short barreled shotgun" means a shotgun that has a barrel or barrels of fewer

946 than 18 inches in length.

947 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by
948 alteration, modification, or otherwise, if the weapon as modified has an overall length
949 of fewer than 26 inches

950 (11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets
951 or a single slug.

952 (12) "Slug" means a single projectile discharged from a shotgun shell.

953 Section 13. Section **53-5a-302**, which is renumbered from Section 76-10-526 is renumbered
954 and amended to read:

955 **[76-10-526] 53-5a-302 . Criminal background check prior to purchase of a**
956 **firearm -- Fee -- Exemption for concealed firearm permit holders and law**
957 **enforcement officers.**

958 ~~[(1) For purposes of this section, "valid permit to carry a concealed firearm" does not~~
959 ~~include a temporary permit issued under Section 53-5-705.]~~

960 ~~[(2)] (1)(a)~~ To establish personal identification and residence in this state for purposes of
961 this part, a dealer shall require an individual receiving a firearm to present one photo
962 identification on a form issued by a governmental agency of the state.

963 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as
964 proof of identification for the purpose of establishing personal identification and
965 residence in this state as required under this Subsection ~~[(2)] (1)~~.

966 ~~[(3)] (2)(a)~~ A criminal history background check is required for the sale of a firearm by a
967 licensed firearm dealer in the state.

968 (b) Subsection ~~[(3)(a)] (2)(a)~~ does not apply to the sale of a firearm to a Federal Firearms
969 Licensee.

970 ~~[(4)] (3)(a)~~ An individual purchasing a firearm from a dealer shall consent in writing to a
971 criminal background check, on a form provided by the bureau.

972 (b) The form shall contain the following information:

973 (i) the dealer identification number;

974 (ii) the name and address of the individual receiving the firearm;

975 (iii) the date of birth, height, weight, eye color, and hair color of the individual
976 receiving the firearm; and

977 (iv) the social security number or any other identification number of the individual
978 receiving the firearm.

979 ~~[(5)] (4)(a)~~ The dealer shall send the information required by Subsection ~~[(4)] (3)~~ to the

980 bureau immediately upon its receipt by the dealer.

981 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
982 provided the bureau with the information in Subsection [~~(4)~~] (3) and has received
983 approval from the bureau under Subsection [~~(7)~~] (6).

984 [~~(6)~~] (5) The dealer shall make a request for criminal history background information by
985 telephone or other electronic means to the bureau and shall receive approval or denial of
986 the inquiry by telephone or other electronic means.

987 [~~(7)~~] (6) When the dealer calls for or requests a criminal history background check, the
988 bureau shall:

989 (a) review the criminal history files, including juvenile court records, and the temporary
990 restricted file created under Section 53-5c-301, to determine if the individual is
991 prohibited from purchasing, possessing, or transferring a firearm by state or federal
992 law;

993 (b) inform the dealer that:

994 (i) the records indicate the individual is prohibited; or

995 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

996 (c) provide the dealer with a unique transaction number for that inquiry; and

997 (d) provide a response to the requesting dealer during the call for a criminal background
998 check, or by return call, or other electronic means, without delay, except in case of
999 electronic failure or other circumstances beyond the control of the bureau, the bureau
1000 shall advise the dealer of the reason for the delay and give the dealer an estimate of
1001 the length of the delay.

1002 [~~(8)~~] (7)(a) The bureau may not maintain any records of the criminal history background
1003 check longer than 20 days from the date of the dealer's request, if the bureau
1004 determines that the individual receiving the firearm is not prohibited from
1005 purchasing, possessing, or transferring the firearm under state or federal law.

1006 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
1007 firearms number, the transaction number, and the transaction date for a period of 12
1008 months.

1009 [~~(9)~~] (8)(a) If the criminal history background check discloses information indicating
1010 that the individual attempting to purchase the firearm is prohibited from purchasing,
1011 possessing, or transferring a firearm, the bureau shall:

1012 (i) within 24 hours after determining that the purchaser is prohibited from purchasing,
1013 possessing, or transferring a firearm, notify the law enforcement agency in the

- 1014 jurisdiction where the dealer is located; and
- 1015 (ii) inform the law enforcement agency in the jurisdiction where the individual
- 1016 resides.
- 1017 (b) Subsection [~~(9)(a)~~] (8)(a) does not apply to an individual prohibited from purchasing
- 1018 a firearm solely due to placement on the temporary restricted list under Section
- 1019 53-5c-301.
- 1020 (c) A law enforcement agency that receives information from the bureau under
- 1021 Subsection [~~(9)(a)~~] (8)(a) shall provide a report before August 1 of each year to the
- 1022 bureau that includes:
- 1023 (i) based on the information the bureau provides to the law enforcement agency under
- 1024 Subsection [~~(9)(a)~~] (8)(a), the number of cases that involve an individual who is
- 1025 prohibited from purchasing, possessing, or transferring a firearm as a result of a
- 1026 conviction for an offense involving domestic violence; and
- 1027 (ii) of the cases described in Subsection [~~(9)(e)(i)~~] (8)(c)(i):
- 1028 (A) the number of cases the law enforcement agency investigates; and
- 1029 (B) the number of cases the law enforcement agency investigates that result in a
- 1030 criminal charge.
- 1031 (d) The bureau shall:
- 1032 (i) compile the information from the reports described in Subsection [~~(9)(e)~~] (8)(c);
- 1033 (ii) omit or redact any identifying information in the compilation; and
- 1034 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
- 1035 Committee before November 1 of each year.
- 1036 [~~(10)~~] (9) If an individual is denied the right to purchase a firearm under this section, the
- 1037 individual may review the individual's criminal history information and may challenge
- 1038 or amend the information as provided in Section 53-10-108.
- 1039 [~~(11)~~] (10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
- 1040 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of
- 1041 all records provided by the bureau under this part are in conformance with the
- 1042 requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107
- 1043 Stat. 1536 (1993).
- 1044 [~~(12)~~] (11)(a) A dealer shall collect a criminal history background check fee for the sale
- 1045 of a firearm under this section.
- 1046 (b) The fee described under Subsection [~~(12)(a)~~] (11)(a) remains in effect until changed
- 1047 by the bureau through the process described in Section 63J-1-504.

- 1048 (c)(i) The dealer shall forward at one time all fees collected for criminal history
1049 background checks performed during the month to the bureau by the last day of
1050 the month following the sale of a firearm.
- 1051 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to
1052 cover the cost of administering and conducting the criminal history background
1053 check program.
- 1054 ~~[(13)]~~ (12)(a) An individual with a concealed firearm permit issued under Title 53,
1055 Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and
1056 corresponding fee required in this section for the purchase of a firearm if:
- 1057 ~~[(a)]~~ (i) the individual presents the individual's concealed firearm permit to the dealer
1058 prior to purchase of the firearm; and
- 1059 ~~[(b)]~~ (ii) the dealer verifies with the bureau that the individual's concealed firearm
1060 permit is valid.
- 1061 (b) An individual with a temporary permit to carry a concealed firearm issued under
1062 Section 53-5-705 is not exempt from a background check and the corresponding fee
1063 required in this section for the purchase of a firearm.
- 1064 ~~[(14)]~~ (13)(a) A law enforcement officer, as defined in Section 53-13-103, is exempt
1065 from the background check fee required in this section for the purchase of a personal
1066 firearm to be carried while off-duty if the law enforcement officer verifies current
1067 employment by providing a letter of good standing from the officer's commanding
1068 officer and current law enforcement photo identification.
- 1069 (b) Subsection ~~[(14)(a)]~~ (13)(a) may only be used by a law enforcement officer to
1070 purchase a personal firearm once in a 24-month period.
- 1071 ~~[(15)]~~ (14) A dealer engaged in the business of selling, leasing, or otherwise transferring a
1072 firearm shall:
- 1073 (a) make the firearm safety brochure described in Subsection 26B-5-211(3) available to
1074 a customer free of charge; and
- 1075 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under
1076 Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun,
1077 short barreled rifle, rifle, or another firearm that federal law does not require be
1078 accompanied by a gun lock at the time of purchase.
- 1079 Section 14. Section **53-5a-303**, which is renumbered from Section 76-10-526.1 is renumbered
1080 and amended to read:
- 1081 ~~[76-10-526.1]~~ **53-5a-303 . Information check before private sale of firearm.**

- 1082 (1) As used in this section:
- 1083 (a) "Governmental entity" means the state and the state's political subdivisions.
- 1084 (b) "Law enforcement agency" means the same as that term is defined in Section
- 1085 53-1-102.
- 1086 (c) "Personally identifiable information" means the same as that term is defined in
- 1087 Section 63D-2-102.
- 1088 (2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows
- 1089 an individual who is selling or purchasing a firearm to voluntarily determine:
- 1090 (a) if the other individual involved in the sale of the firearm has a valid concealed carry
- 1091 permit; or
- 1092 (b) based on the serial number of the firearm, if the firearm is reported as stolen.
- 1093 (3) Subsection (2) does not apply to a federal firearms licensee or dealer.
- 1094 (4) The bureau may not:
- 1095 (a) provide information related to a request under Subsection (2) to a law enforcement
- 1096 agency; or
- 1097 (b) collect a user's personally identifiable information under Subsection (2).
- 1098 (5) A governmental entity may not require an individual who is selling or purchasing a
- 1099 firearm to use the process under Subsection (2).
- 1100 (6) If an individual uses the process under Subsection (2), the individual is not required,
- 1101 based on the information the individual receives from the bureau, to make a report to a
- 1102 law enforcement agency.
- 1103 (7) After responding to a request under Subsection (2), the bureau shall immediately
- 1104 dispose of all information related to the request.
- 1105 (8)(a) This section does not create a civil cause of action arising from the sale or
- 1106 purchase of a firearm under this section.
- 1107 (b) An individual's failure to use the process under Subsection (2) is not evidence of the
- 1108 individual's negligence in a civil cause of action.
- 1109 Section 15. Section **53-5a-304**, which is renumbered from Section 76-10-527 is renumbered
- 1110 and amended to read:
- 1111 **~~[76-10-527]~~ 53-5a-304 . Penalties.**
- 1112 (1) A dealer is guilty of a class A misdemeanor ~~[who]~~ if the dealer willfully and
- 1113 intentionally:
- 1114 (a) requests, obtains, or seeks to obtain criminal history background information under
- 1115 false pretenses;

- 1116 (b) disseminates criminal history background information; or
1117 (c) violates Section ~~[76-10-526]~~ 53-5a-302.
- 1118 (2) ~~[A person]~~ An individual who purchases or transfers a firearm is guilty of a third degree
1119 felony ~~[of the third degree if the person]~~ if the individual willfully and intentionally
1120 makes a false statement of the information required for a criminal background check in
1121 Section ~~[76-10-526]~~ 53-5a-302.
- 1122 (3) Except as otherwise provided in Subsection (1), a dealer is guilty of a ~~[felony of the]~~
1123 third degree felony if the dealer willfully and intentionally sells or transfers a firearm in
1124 violation of this part or Title 76, Chapter 11, Part 1, Weapons.
- 1125 (4) ~~[A person]~~ An individual is guilty of a ~~[felony of the]~~ third degree felony if the ~~[person]~~
1126 individual purchases a firearm with the intent to:
- 1127 (a) resell or otherwise provide a firearm to ~~[a person]~~ an individual who is ineligible to
1128 purchase or receive a firearm from a dealer; or
- 1129 (b) transport a firearm out of this state to be resold to an ~~[ineligible person]~~ individual
1130 who is ineligible to purchase or receive a firearm from a dealer.

1131 Section 16. Section **53-5a-305**, which is renumbered from Section 76-10-524 is renumbered
1132 and amended to read:

1133 ~~[76-10-524]~~ **53-5a-305 . Purchase of firearms pursuant to federal law.**

1134 This part ~~[will allow purchases]~~ allows the purchase of firearms and ammunition
1135 pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

1136 Section 17. Section **58-37-8.1**, which is renumbered from Section 76-10-2204 is renumbered
1137 and amended to read:

1138 ~~[76-10-2204]~~ **58-37-8.1 . Duty to report drug diversion.**

1139 (1) As used in this section:

- 1140 (a) "Diversion" means a practitioner's transfer of a significant amount of drugs to
1141 another individual for an unlawful purpose.
- 1142 (b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in
1143 Section 58-37-4, that is an opiate.
- 1144 (c) "HIPAA" means the same as that term is defined in Section 26B-3-126.
- 1145 (d) "Opiate" means the same as that term is defined in Section 58-37-2.
- 1146 (e) "Practitioner" means an individual:
- 1147 (i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to
1148 administer, dispense, distribute, or prescribe a drug in the course of professional
1149 practice; or

1150 (ii) employed by a person who is licensed, registered, or otherwise authorized by the
1151 appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in
1152 the course of professional practice or standard operations.

1153 (f) "Significant amount" means an aggregate amount equal to, or more than, 500
1154 morphine milligram equivalents calculated in accordance with guidelines developed
1155 by the Centers for Disease Control and Prevention[~~-(CDC)~~].

1156 (2) An individual is guilty of a class B misdemeanor if the individual:

1157 (a) knows that a practitioner is involved in diversion; and

1158 (b) knowingly fails to report the diversion to a peace officer or law enforcement agency.

1159 (3) Subsection (2) does not apply to the extent that an individual is prohibited from
1160 reporting by 42 C.F.R. Part 2 or HIPAA.

1161 Section 18. Section **58-37-8.2**, which is renumbered from Section 76-10-2203 is renumbered
1162 and amended to read:

1163 **[76-10-2203] 58-37-8.2 . Possession, sale, or use of an adulterant or synthetic**
1164 **urine.**

1165 (1) As used in this section, "adulterant" means a substance that may be added to human
1166 urine or another human bodily fluid to change, dilute, or interfere with the composition,
1167 chemical properties, physical appearance, or physical properties of the urine or other
1168 bodily fluid.

1169 (2) Under circumstances not amounting to a violation of Section 76-8-510.5, ~~[it is unlawful~~
1170 ~~for a person to]~~ Tampering with evidence, a person commits possession, sale or use of an
1171 adulterant or synthetic urine if the person:

1172 (a) ~~[distribute, possess, or sell]~~ distributes, possesses, or sells synthetic urine;

1173 (b) ~~[distribute or sell]~~ distributes or sells an adulterant with:

1174 (i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening
1175 test; or

1176 (ii) knowledge that the recipient of the adulterant intends to use the adulterant to
1177 defeat or defraud an alcohol or drug screening test;

1178 (c) ~~[possess-]~~ possesses an adulterant with intent to use the adulterant to defeat or defraud
1179 an alcohol or drug screening test; or

1180 (d) intentionally ~~[use]~~ uses:

1181 (i) an adulterant to defeat or defraud an alcohol or drug screening test;

1182 (ii) the person's urine or bodily fluid to defeat or defraud an alcohol or drug screening
1183 test if the urine or bodily fluid was expelled or withdrawn before the time at which

1184 the urine or bodily fluid is collected for the test; or
1185 (iii) the urine or bodily fluid of another person to defeat or defraud an alcohol or drug
1186 screening test.

1187 (3) ~~[A person who violates this section is guilty of]~~ A violation of this section is an
1188 infraction.

1189 (4) A person ~~[is not guilty of a violation of this section for]~~ does not commit a violation of
1190 Subsection (2) if the person is engaging in conduct described in this section for the sole
1191 purpose of education or medical or scientific research.

1192 (5) This section does not apply to persons currently under:

1193 (a) court-ordered supervision; or

1194 (b) the supervision of the Board of Pardons and Parole.

1195 (6) An entity that collects specimens for the purpose of testing and screening, and reports
1196 the results back to an employer, shall report to the employer and the Department of
1197 Public Safety if a report is received that indicates that adulterated or synthetic urine was
1198 submitted for an alcohol or drug screening test.

1199 Section 19. Section **59-14-501.5** is enacted to read:

1200 **59-14-501.5 . Advertising warning label requirements.**

1201 (1) For purposes of this section, "smokeless tobacco" means any finely cut, ground,
1202 powdered, or leaf tobacco that is intended to be placed in an oral cavity or nasal passage.

1203 (2)(a) An advertisement for smokeless tobacco placed in a newspaper, magazine, or
1204 periodical published in this state must bear a warning that states: "Use of smokeless
1205 tobacco may cause oral cancer and other mouth disorders and is addictive."

1206 (b) The warning described in Subsection (2)(a) shall be placed in a conspicuous location
1207 and in conspicuous and legible type, in contrast with the typography, layout, and
1208 color of all other printed material in the advertisement.

1209 Section 20. Section **59-14-507** is amended to read:

1210 **59-14-507 . Penalty for violation.**

1211 ~~[Violation of this part]~~ A violation of any of the following sections is a class

1212 B misdemeanor:

1213 _

1214 (1) Section 59-14-501, Warning labels required;

1215 (2) Section 59-14-502, Requirements for placement of warning labels;

1216 (3) Section 59-14-504, Responsibility for placement of warning labels; or

1217 (4) Section 59-14-509, Restrictions on mail order or Internet sales.

1218 Section 21. Section **63I-1-276** is amended to read:

1219 **63I-1-276 . Repeal dates: Title 76.**

1220 (1) Subsection 76-7-313(6), regarding a report provided by the Department of Health and
1221 Human Services, is repealed July 1, 2027.

1222 (2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July
1223 1, 2025.

1224 Section 22. Section **63I-2-276** is amended to read:

1225 **63I-2-276 . Repeal dates: Title 76.**

1226 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee
1227 of a health facility, is repealed January 1, 2027.

1228 (2) Subsection 76-10-529(9), regarding data collection requirements for a law enforcement
1229 agency that issues a written warning, citation, or referral, is repealed December 31, 2031.

1230 Section 23. Section **67-5-40**, which is renumbered from Section 76-10-3114 is renumbered
1231 and amended to read:

1232 **~~[76-10-3114]~~ 67-5-40 . Attorney General Litigation Fund.**

1233 (1)(a) There is created an expendable special revenue fund known as the Attorney
1234 General Litigation Fund for the purpose of providing funds to pay for:

1235 (i) ~~[any]~~ costs and expenses incurred by the state attorney general in relation to
1236 actions under state or federal antitrust, criminal laws, or civil proceedings under
1237 Title 13, Chapter 44, Protection of Personal Information Act; and

1238 (ii) citizen education and outreach related to any item described in Subsection (1)(a)(i).

1239 (b) The funds described in Subsection (1)(a) are in addition to other funds as may be
1240 appropriated by the Legislature to the attorney general for the administration and
1241 enforcement of the laws of this state.

1242 (c) At the close of any fiscal year, any balance in the fund in excess of \$4,000,000 shall
1243 be transferred to the General Fund.

1244 (d) The attorney general may expend money from the Attorney General Litigation Fund
1245 for the purposes in Subsection (1)(a).

1246 (2)(a) All money received by the state or ~~[its]~~ the state's agencies by reason of ~~[any]~~ a
1247 judgment, settlement, or compromise as the result of ~~[any]~~ an action commenced,
1248 investigated, or prosecuted by the attorney general, after payment of any fines,
1249 restitution, payments, costs, or fees allocated by the court, shall be deposited in the
1250 Attorney General Litigation Fund, except as provided in Subsection (2)(b).

1251 (b)(i) Any expenses advanced by the attorney general in any of the actions under

1252 Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.
1253 (ii) Any money recovered by the attorney general on behalf of ~~[any]~~ a private person
1254 or public body other than the state shall be paid to those persons or bodies from
1255 funds remaining after payment of expenses under Subsection (2)(b)(i).

1256 Section 24. Section **76-5-115**, which is renumbered from Section 76-10-2202 is renumbered
1257 and amended to read:

1258 ~~[76-10-2202]~~ **76-5-115 . Leaving a child unattended in a motor vehicle.**

1259 (1)(a) As used in this section:

1260 ~~[(a)]~~ (i) "Child" means ~~[a person]~~ an individual who is younger than nine years old.

1261 ~~[(b)]~~ (ii) "Enclosed compartment" means any enclosed area of a motor vehicle,
1262 including the passenger compartment, regardless of whether a door, window, or
1263 hatch is left open.

1264 ~~[(c)]~~ (iii) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other
1265 self-propelled vehicle.

1266 (b) Terms defined in Section 76-1-101.5 apply to this section.

1267 (2) ~~[A person who is responsible for a child is guilty of a class C misdemeanor]~~ An actor
1268 commits leaving a child unattended in a motor vehicle if:

1269 (a) the ~~[person]~~ actor intentionally, ~~[recklessly,]~~ knowingly, recklessly, or with criminal
1270 negligence leaves ~~[the]~~ a child in an enclosed compartment of a motor vehicle;

1271 (b) the motor vehicle is on:

1272 (i) public property; or

1273 (ii) private property that is open to the general public;

1274 (c) the child is not supervised by ~~[a person]~~ an individual who is at least nine years old;
1275 and

1276 (d) the conditions present a risk to the child of:

1277 (i) hyperthermia;

1278 (ii) hypothermia; or

1279 (iii) dehydration.

1280 ~~[(3) This section does not apply if the person's conduct that constitutes a violation of this~~
1281 ~~section is subject to a greater penalty under another provision of state law.]~~

1282 (3) A violation of Subsection (2) is a class C misdemeanor.

1283 (4) This section preempts enforcement of a local law or ordinance that makes it an
1284 infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor
1285 under this section.

1286 (5) Notwithstanding any provision of state law to the contrary, a conviction under this
1287 section may not be used by a state or local government entity as grounds for revoking,
1288 refusing to grant, or refusing to renew, a license or permit, including a license or permit
1289 relating to the provision of day care or child care.

1290 Section 25. Section **76-5-417**, which is renumbered from Section 76-4-401 is renumbered
1291 and amended to read:

1292 ~~[76-4-401]~~ **76-5-417 . Enticing a minor to engage in sexual activity.**

1293 (1)(a) As used in this section:

1294 (i) "Minor" means an individual who is under 18 years old.

1295 (ii) "Electronic communication" means the same as that term is defined in Section
1296 76-9-201.

1297 (iii) "Electronic communication device" means the same as that term is defined in
1298 Section 76-9-201.

1299 (b) Terms defined in Section 76-1-101.5 apply to this section.

1300 (2) An actor commits ~~[enticement of]~~ enticing a minor to engage in sexual activity if the
1301 actor knowingly:

1302 (a) uses an electronic communication or an electronic communication device to:

1303 (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or
1304 entice a minor, or another person that the actor believes to be a minor, to engage
1305 in sexual activity that is a violation of state criminal law; or

1306 (ii)(A) initiate contact with a minor or a person the actor believes to be a minor;
1307 and

1308 (B) subsequent to the action described in Subsection (2)(a)(ii)(A), by any
1309 electronic or written means, solicits, seduces, lures, or entices, or attempts to
1310 solicit, seduce, lure, or entice the minor or a person the actor believes to be the
1311 minor to engage in sexual activity that is a violation of state criminal law; or

1312 (b) develops a relationship of trust with the minor or the minor's parent or guardian with
1313 the intent to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice
1314 the minor to engage in sexual activity that is a violation of state criminal law.

1315 ~~[(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt
1316 to commit this offense, that a law enforcement officer or an undercover operative who is
1317 employed by a law enforcement agency was involved in the detection or investigation of
1318 the offense.]~~

1319 ~~[(4)]~~ (3) ~~[Enticement of a minor under]~~ A violation of Subsection (2) is punishable as

1320 follows:

1321 (a) enticement to engage in sexual activity that would be a first degree felony for the
1322 actor is a:

1323 (i) second degree felony upon the first conviction for violation of this Subsection [
1324 ~~(4)(a)~~] (3)(a); and

1325 (ii) first degree felony punishable by imprisonment for an indeterminate term of not
1326 fewer than three years and which may be for life, upon a second or any subsequent
1327 conviction for a violation of this Subsection [~~(4)(a)~~] (3)(a);

1328 (b) enticement to engage in sexual activity that would be a second degree felony for the
1329 actor is a third degree felony;

1330 (c) enticement to engage in sexual activity that would be a third degree felony for the
1331 actor is a class A misdemeanor;

1332 (d) enticement to engage in sexual activity that would be a class A misdemeanor for the
1333 actor is a class B misdemeanor; and

1334 (e) enticement to engage in sexual activity that would be a class B misdemeanor for the
1335 actor is a class C misdemeanor.

1336 (4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law
1337 enforcement officer or an undercover operative who is employed by a law enforcement
1338 agency was involved in the detection or investigation of the offense.

1339 (5)(a) When an actor who commits a felony violation of this section has [~~been~~]
1340 previously been convicted of an offense [~~under~~] described in Subsection (5)(b), the
1341 court may not in any way shorten the prison sentence, and the court may not:

1342 (i) grant probation;

1343 (ii) suspend the execution or imposition of the sentence;

1344 (iii) enter a judgment for a lower category of offense; or

1345 (iv) order hospitalization.

1346 (b) The sections referred to in Subsection (5)(a) are:

1347 (i) [~~Section 76-4-401,~~]enticing a minor as described in Section 76-4-401;

1348 (ii) [~~Section 76-5-301.1,~~]child kidnapping as described in Section 76-5-301.1;

1349 (iii) [~~Section 76-5-402,~~]rape as described in Section 76-5-402;

1350 (iv) [~~Section 76-5-402.1,~~]rape of a child as described in Section 76-5-402.1;

1351 (v) [~~Section 76-5-402.2,~~]object rape as described in Section 76-5-402.2;

1352 (vi) [~~Section 76-5-402.3,~~]object rape of a child as described in Section 76-5-402.3;

1353 (vii) [~~Section 76-5-403,~~]forcible sodomy as described in Section 76-5-403;

- 1354 (viii) [~~Section 76-5-403.1,~~]sodomy on a child as described in Section 76-5-403.1;
- 1355 (ix) [~~Section 76-5-404,~~]forcible sexual abuse as described in Section 76-5-404;
- 1356 (x) [~~Section 76-5-404.1,~~]sexual abuse of a child as described in Section 76-5-404.1, ;
- 1357 (xi) [~~and Section 76-5-404.3,~~]aggravated sexual abuse of a child as described in
- 1358 Section 76-5-404.3;
- 1359 [~~(xi)~~] (xii) [~~Section 76-5-405,~~]aggravated sexual assault as described in Section
- 1360 76-5-405;
- 1361 [~~(xii)~~] (xiii) [~~Section 76-5-308.5,~~]human trafficking of a child as described in Section
- 1362 76-5-308.5;
- 1363 [~~(xiii)~~] (xiv) any offense in any other state or federal jurisdiction that constitutes or
- 1364 would constitute a crime in Subsections (5)(b)(i) through [~~(xii)~~] (xiii); or
- 1365 [~~(xiv)~~] (xv) the attempt, solicitation, or conspiracy to commit any of the offenses in
- 1366 Subsections (5)(b)(i) through [~~(xiii)~~] (xiv).
- 1367 Section 26. Section **76-5-418**, which is renumbered from Section 76-9-702.1 is renumbered
- 1368 and amended to read:
- 1369 **~~76-9-702.1~~76-5-418 . Sexual battery.**
- 1370 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 1371 (2) An actor [~~is guilty of~~] commits sexual battery if [~~the actor~~], under circumstances not
- 1372 amounting to an offense [~~under~~] described in Subsection [~~(2)~~] (4), the actor:
- 1373 (a) [~~]intentionally touches, whether or not through clothing[;]~~ :
- 1374 (i) the anus, buttocks, or any part of the genitals of another individual[;] ; or
- 1375 (ii) [~~]the breast of a female individual[;]~~ ; and
- 1376 (b) [~~]the actor's conduct is under circumstances that the actor knows or should know~~
- 1377 will likely cause affront or alarm to the individual touched.
- 1378 [~~(2)~~] (3) A violation of Subsection (2) is a class A misdemeanor.
- 1379 (4) [~~Offenses~~] The offenses referred to in Subsection [~~(4)~~] (2) are:
- 1380 (a) rape under Section 76-5-402;
- 1381 (b) rape of a child under Section 76-5-402.1;
- 1382 (c) object rape under Section 76-5-402.2;
- 1383 (d) object rape of a child under Section 76-5-402.3;
- 1384 (e) forcible sodomy under Subsection 76-5-403(2);
- 1385 (f) sodomy on a child under Section 76-5-403.1;
- 1386 (g) forcible sexual abuse under Section 76-5-404;
- 1387 (h) sexual abuse of a child under Section 76-5-404.1;

1388 (i) aggravated sexual abuse of a child under Section 76-5-404.3;

1389 (j) aggravated sexual assault under Section 76-5-405; and

1390 (k) an attempt to commit an offense under this Subsection (2).

1391 [~~(3) Sexual battery is a class A misdemeanor.~~]

1392 [~~(4)~~ (5)(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo
1393 contendere to a charge under this section that is held in abeyance under Title 77,
1394 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

1395 (b) This Subsection [~~(4)~~ (5) also applies if the charge under this section has been
1396 subsequently reduced or dismissed in accordance with the plea in abeyance
1397 agreement.

1398 Section 27. Section **76-5-419**, which is renumbered from Section 76-9-702 is renumbered
1399 and amended to read:

1400 ~~[76-9-702]~~ **76-5-419 . Lewdness.**

1401 (1)(a) As used in this section:

1402 (i) "Common area of a privacy space" means any area of a privacy space other than:

1403 (A) a toilet stall with a closed door;

1404 (B) immediately in front of a urinal during use; or

1405 (C) a shower stall with a closed door or other closed covering.

1406 (ii) "Privacy space" means the same as that term is defined in Section 76-12-309.

1407 (iii) "Sex-designated" means the same as that term is defined in Section 76-12-309.

1408 (b) Terms defined in Section 76-1-101.5 apply to this section.

1409 [~~(1)~~ (2) [A person is guilty of] Under circumstances not amounting to an offense listed in

1410 Subsection (4), an actor commits lewdness if [~~the person under circumstances not~~

1411 amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated

1412 sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or

1413 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual

1414 misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving

1415 state services under Section 76-5-413, custodial sexual misconduct with youth receiving

1416 state services under Section 76-5-413.2, or an attempt to commit any of these offenses,

1417 performs any of the following acts in a public place or under circumstances which the

1418 person should know will likely cause affront or alarm to, on, or in the presence of

1419 another individual who is 14 years old or older]:

1420 (a) the actor performs:

1421 (i) an act of sexual intercourse or sodomy;

- 1422 ~~[(b)]~~ (ii) an act[exposes his or her] exposing the actor's:
- 1423 (A) genitals[-] ;
- 1424 (B) [the-]female breast below the top of the areola if the actor is female[-] ;
- 1425 (C) [the-]buttocks, [the-]anus, or [the-]pubic area;
- 1426 ~~[(e)]~~ (D) masturbates; or
- 1427 ~~[(d)]~~ (iii) any other act of lewdness[-] ; and
- 1428 (b) an action described in Subsection (2)(a) is undertaken:
- 1429 (i) in a public place; or
- 1430 (ii) under circumstances which the actor should know will likely cause affront or
- 1431 alarm to, on, or in the presence of another individual who is 14 years old or older.
- 1432 ~~[(2)]~~ (3)(a) [A person convicted the first or second time of a] Except as provided in
- 1433 Subsection (3)(b) or (c), a violation of Subsection [(1)-] (2) is [guilty of-]a class B
- 1434 misdemeanor[-, except under Subsection (2)(b)].
- 1435 (b) ~~[A person convicted of]~~ Except as provided in Subsection (3)(c), a violation of
- 1436 Subsection [(1)-] (2) is [guilty of-]a third degree felony if at the time of the violation:
- 1437 (i) the [person] actor is a sex offender as defined in Section 77-27-21.7;
- 1438 (ii) the [person] actor has [been-]previously been convicted two or more times of [
- 1439 violating] a violation of Subsection [(1)-] (2);
- 1440 (iii) the [person] actor has previously been convicted of:
- 1441 (A) [-]a violation of Subsection [(1)-] (2); and
- 1442 (B) [-has also previously been convicted of-]a violation of Section [76-9-702.5]
- 1443 76-5-420;
- 1444 (iv) the [person commits the offense of lewdness while-] actor also [committing]
- 1445 commits the offense of:
- 1446 (A) criminal trespass [in a] resulting from unlawfully entering a sex-designated
- 1447 changing room [under] as described in Subsection 76-6-206(2)(d);
- 1448 (B) lewdness involving a child [under] as described in Section [76-9-702.5]
- 1449 76-5-420;
- 1450 (C) voyeurism [under] as described in Section [76-9-702.7] 76-12-306;
- 1451 (D) recorded or photographed voyeurism as described in Section 76-12-307;
- 1452 (E) distribution of images obtained through voyeurism as described in Section
- 1453 76-12-308; or
- 1454 ~~[(D)]~~ (F) loitering in a privacy space [under] as described in Section [76-9-702.8]
- 1455 76-12-309; or

1456 (v) the ~~[person commits the offense of lewdness]~~ actor is in a sex-designated privacy
1457 space,~~[-as defined in Section 76-9-702.8,]~~ that is not designated for individuals of
1458 the actor's sex.

1459 ~~[(e)(i) For purposes of this Subsection (2) and Subsection 77-41-102(19), a plea of~~
1460 ~~guilty or nolo contendere to a charge under this section that is held in abeyance under~~
1461 ~~Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.]~~

1462 ~~[(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been~~
1463 ~~subsequently reduced or dismissed in accordance with the plea in abeyance~~
1464 ~~agreement.]~~

1465 (4) The offenses referred to in Subsection (2) are:

1466 (a) unlawful sexual conduct with a 16- or 17-year-old as described in Section 76-5-401.2;

1467 (b) rape as described in Section 76-5-402;

1468 (c) object rape as described in Section 76-5-402.2;

1469 (d) forcible sodomy as described in Section 76-5-403;

1470 (e) forcible sexual abuse as described in Section 76-5-404;

1471 (f) sexual abuse of a child as described in Section 76-5-404.1;

1472 (g) aggravated sexual assault as described in Section 76-5-405;

1473 (h) custodial sexual relations as described in Section 76-5-412;

1474 (i) custodial sexual misconduct as described in Section 76-5-412.2;

1475 (j) custodial sexual relations with youth receiving state services as described in Section
1476 76-5-413;

1477 (k) custodial sexual misconduct with youth receiving state services as described in
1478 Section 76-5-413.2; or

1479 (l) an attempt to commit an offense described in Subsection (4)(a) through (o).

1480 (5)(a) For purposes of Subsection (3) and Subsection 77-41-102(19), a plea of guilty or
1481 nolo contendere to a charge under this section that is held in abeyance under Title 77,
1482 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

1483 (b) Subsection (5)(a) also applies if the charge under Subsection (3) has been
1484 subsequently reduced or dismissed in accordance with the plea in abeyance
1485 agreement.

1486 ~~[(3)] (6)[(a) As used in this Subsection (3):]~~

1487 ~~[(i) "Common area of a privacy space" means any area of a privacy space other than:]~~

1488 ~~[(A) a toilet stall with a closed door;]~~

1489 ~~[(B) immediately in front of a urinal during use; or]~~

- 1490 ~~[(C) a shower stall with a closed door or other closed covering.]~~
- 1491 ~~[(ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.]~~
- 1492 ~~[(b)] (a)~~ The common area of a privacy space constitutes a public place or circumstance
1493 described in Subsection ~~[(1)]~~ (2) where an act or an attempted act described in
1494 Subsection ~~[(1)]~~ (2) constitutes lewdness.
- 1495 ~~[(e)]~~ (b) Within the common area of a dressing room, fitting room, locker room,
1496 changing facility, or any other space designated for multiple individuals to dress or
1497 undress within the same space, exposing, displaying, or otherwise uncovering
1498 genitalia that does not correspond with the sex designation of the changing room
1499 constitutes an act or an attempted act described in Subsection ~~[(1)]~~ (2) that constitutes
1500 lewdness.
- 1501 ~~[(4)]~~ (7) A woman's breast feeding, including breast feeding in any location where the
1502 woman otherwise may rightfully be, does not under any circumstance constitute a lewd
1503 act, irrespective of whether or not the breast is covered during or incidental to feeding.
- 1504 Section 28. Section **76-5-420**, which is renumbered from Section 76-9-702.5 is renumbered
1505 and amended to read:
- 1506 **~~[76-9-702.5]~~ 76-5-420 . Lewdness involving a child.**
- 1507 (1)(a) As used in this section:
- 1508 ~~[(a) "In the presence of" includes within visual contact through an electronic device.]~~
- 1509 (i) "Child" means an individual younger than 14 years old.
- 1510 ~~[(b)]~~ (ii) "Common area of a privacy space" means the same as that term is defined in
1511 Section ~~[76-9-702]~~ 76-5-419.
- 1512 (iii) ~~"In the presence of" includes within visual contact through an electronic device.~~
- 1513 ~~[(e)]~~ (iv) "Privacy space" means the same as that term is defined in Section [
1514 76-9-702.8] 76-12-309.
- 1515 (v) "Sex-designated" means the same as that term is defined in Section 76-12-309.
- 1516 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1517 (2) ~~[A person is guilty of]~~ Under circumstances not amounting to an offense listed in
1518 Subsection (4), an actor commits lewdness involving a child if the ~~[person under~~
1519 ~~circumstances not amounting to rape of a child, object rape of a child, sodomy upon a~~
1520 ~~child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to~~
1521 ~~commit any of those offenses;]~~ actor intentionally or knowingly:
- 1522 (a) does any of the following in the presence of a child~~[who is under 14 years of age]:~~
- 1523 (i) performs an act of sexual intercourse or sodomy;

- 1524 (ii) exposes ~~[his or her]~~ the actor's genitals, the female breast below the top of the
1525 areola, the buttocks, the anus, or the pubic area:
- 1526 (A) in a public place; or
- 1527 (B) in a private place under circumstances the ~~[person]~~ actor should know will
1528 likely cause affront or alarm or with the intent to arouse or gratify the sexual
1529 desire of the actor or the child;
- 1530 (iii) masturbates; or
- 1531 (iv) performs any other act of lewdness; or
- 1532 (b) under circumstances not amounting to sexual exploitation of a child under Section
1533 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1,
1534 causes a child ~~[under the age of 14 years]~~ to expose ~~[his or her]~~ the child's genitals,
1535 anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual
1536 desire of the actor or the child.
- 1537 (3)(a) ~~[Lewdness involving a child is]~~ Except as provided in Subsection (3)(b), a
1538 violation of Subsection (2) is a class A misdemeanor~~[, except under Subsection (3)(b)].~~
- 1539 (b) ~~[Lewdness involving a child]~~ A violation of Subsection (2) is a third degree felony if
1540 at the time of the violation:
- 1541 (i) the ~~[person]~~ actor is a sex offender as defined in Section 77-27-21.7;
- 1542 (ii) the ~~[person]~~ actor has previously been convicted of a violation of ~~[this section]~~
1543 Subsection (2);
- 1544 (iii) the ~~[person]~~ actor commits ~~[the offense of lewdness involving a child while also~~
1545 committing] the offense of:
- 1546 (A) criminal trespass ~~[in a]~~ resulting from unlawfully entering a sex-designated
1547 changing room ~~[under]~~ as described in Subsection 76-6-206(2)(d);
- 1548 (B) lewdness ~~[under]~~ as described in Section ~~[76-9-702]~~ 76-5-419;
- 1549 (C) voyeurism ~~[under]~~ as described in Section ~~[76-9-702.7]~~ 76-12-306~~;~~
1550 (D) recorded or photographed voyeurism as described in Section 76-12-307;
- 1551 (E) distribution of images obtained through voyeurism as described in Section
1552 76-12-308; or
- 1553 ~~[(D)]~~ (F) loitering in a privacy space ~~[under Section 76-9-702.8]~~ as described in
1554 Section 76-12-309; or
- 1555 (iv) ~~[the person commits the offense of lewdness involving a child in a~~
1556 sex-designated privacy space, as defined in Section 76-9-702.8, that is not
1557 designated for individuals of the actor's sex] the actor is in a sex-designated

1558 privacy space, that is not designated for individuals of the actor's sex.

1559 (4) The offenses referred to in Subsection (2) are:

1560 (a) rape of a child as described in Section 76-5-402.1;

1561 (b) object rape of a child as described in Section 76-5-402.3

1562 (c) sodomy on a child as described in Section 76-5-403.1;

1563 (d) sexual abuse of a child as described in Section 76-5-404.1;

1564 (e) aggravated sexual abuse of a child as described in Section 76-5-404.3; or

1565 (f) an attempt to commit an offense described in Subsection (4)(a) through (e).

1566 [(4)] (5)(a) The common area of a privacy space constitutes a public place or

1567 circumstance described in Subsection (2) where an act or an attempted act described

1568 in Subsection (2) constitutes [~~lewdness involving a child~~] a violation of Subsection (2).

1569 (b) Within the common area of a government entity's dressing room, fitting room, locker

1570 room, changing facility, or any other space designated for multiple individuals to

1571 dress or undress within the same space, exposing, displaying, or otherwise

1572 uncovering genitalia that does not correspond with the sex designation of the

1573 changing room constitutes an act or an attempted act described in Subsection (2) that

1574 constitutes lewdness involving a child.

1575 Section 29. Section **76-5-801** is enacted to read:

1576

Part 8. Offenses Committed Against the Deceased

1577 **76-5-801 . Definitions.**

1578 As used in this part, "Ancient human remains" means the same as that term is

1579 defined in Section 9-8a-302.

1580 Section 30. Section **76-5-802**, which is renumbered from Section 76-9-704 is renumbered

1581 and amended to read:

1582 **[76-9-704] 76-5-802 . Abuse or desecration of a dead human body.**

1583 (1)(a) [For purposes of this section, "dead human body" includes any part of a human

1584 body in any stage of decomposition, including ancient human remains as defined in

1585 Section 9-8a-302.] Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this

1586 section.

1587 (b) As used in this section, "sexual penetration" means the penetration, however slight,

1588 of the genital or anal opening by any object, substance, instrument, or device,

1589 including a part of the human body, or penetration involving the genitals of the actor

1590 and the mouth of a dead human body.

- 1591 (c) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- 1592 (2) ~~[A person is guilty of]~~ An actor commits abuse or desecration of a dead human body if
- 1593 the ~~[person]~~ actor intentionally and unlawfully:
- 1594 ~~[(a) fails to report the finding of a dead human body to a local law enforcement agency;]~~
- 1595 ~~[(b) (a) disturbs, moves, removes, conceals, or destroys a dead human body or any part~~
- 1596 ~~of [it] the dead human body;~~
- 1597 ~~[(c) (b) disinters a buried or otherwise interred dead human body, without authority of a~~
- 1598 ~~court order;~~
- 1599 ~~[(d) (c) dismembers a dead human body to any extent, or damages or detaches any part~~
- 1600 ~~or portion of a dead human body; or~~
- 1601 ~~[(e) (d) [(i)] commits or attempts to commit upon any dead human body any act of~~
- 1602 ~~sexual penetration, regardless of the sex of the actor and of the dead human body[;~~
- 1603 ~~and] .~~
- 1604 ~~[(ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however~~
- 1605 ~~slight, of the genital or anal opening by any object, substance, instrument, or~~
- 1606 ~~device, including a part of the human body, or penetration involving the genitals~~
- 1607 ~~of the actor and the mouth of the dead human body.]~~
- 1608 (3) A violation of Subsection (2) is a third degree felony.
- 1609 ~~[(3)]~~ (4) An actor does not violate this section if when ~~[that person]~~ the actor
- 1610 directs or carries out procedures regarding a dead human body, ~~[that person]~~ the actor
- 1611 complies with:
- 1612 (a) Title 9, Chapter 8a, Part 3, Antiquities;
- 1613 (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
- 1614 (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 1615 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;
- 1616 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
- 1617 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice
- 1618 medicine.
- 1619 ~~[(4)(a) Failure to report the finding of a dead human body as required under Subsection~~
- 1620 ~~(2)(a) is a class B misdemeanor.]~~
- 1621 ~~[(b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through~~
- 1622 ~~(e) is a third degree felony.]~~
- 1623 (5) For purposes of this section, a dead human body includes any part of a human body in
- 1624 any stage of decomposition, including ancient human remains.

1625 Section 31. Section **76-5-803** is enacted to read:

1626 **76-5-803 . Failure to report the finding of a dead human body.**

1627 (1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

1628 (2) An actor commits failure to report the finding of a dead human body if the actor:

1629 (a) finds a dead human body; and

1630 (b) intentionally fails to report the finding of the dead human body to a local law
1631 enforcement agency.

1632 (3) A violation of Subsection (2) is a class B misdemeanor.

1633 (4) An actor does not violate this section if when the actor directs or carries out procedures
1634 regarding a dead human body, the actor complies with:

1635 (a) Title 9, Chapter 8a, Part 3, Antiquities;

1636 (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

1637 (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

1638 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

1639 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or

1640 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice
1641 medicine.

1642 (5) For purposes of this section, a dead human body includes any part of a human body in
1643 any stage of decomposition, including ancient human remains.

1644 Section 32. Section **76-5b-206**, which is renumbered from Section 76-10-1204.5 is renumbered
1645 and amended to read:

1646 **[76-10-1204.5]76-5b-206 . Failure to report child sexual abuse material by a**
1647 **computer technician.**

1648 [(1) As used in this section:]

1649 [(a) "Child sexual abuse material" means the same as that term is defined in Section
1650 76-5b-103.]

1651 [(b) "Computer technician" or "technician" means an individual who in the course and
1652 scope of the individual's employment for compensation installs, maintains,
1653 troubleshoots, upgrades, or repairs computer hardware, software, personal computer
1654 networks, or peripheral equipment.]

1655 [(c) "Image" means an image of child sexual abuse material or an image that a computer
1656 technician reasonably believes is child sexual abuse material.]

1657 [(2)(a) A computer technician who in the course of employment for compensation views
1658 an image on a computer or other electronic device that is or appears to be child sexual

- 1659 ~~abuse material shall immediately report the finding of the image to:]~~
- 1660 ~~[(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center~~
- 1661 ~~for Missing and Exploited Children; or]~~
- 1662 ~~[(ii) an employee designated by the employer of the computer technician in accordance~~
- 1663 ~~with Subsection (3).]~~
- 1664 ~~[(b) A computer technician who willfully does not report an image as required under~~
- 1665 ~~Subsection (2)(a) is guilty of a class B misdemeanor.]~~
- 1666 ~~[(c) The identity of the computer technician who reports an image shall be confidential;~~
- 1667 ~~except as necessary for the criminal investigation and the judicial process.]~~
- 1668 ~~[(d)(i) If the computer technician makes or does not make a report under this section in~~
- 1669 ~~good faith, the technician is immune from any criminal or civil liability related to~~
- 1670 ~~reporting or not reporting the image.]~~
- 1671 ~~[(ii) In this Subsection (2)(d), good faith may be presumed from an employee's or~~
- 1672 ~~employer's previous course of conduct when the employee or employer has made~~
- 1673 ~~appropriate reports.]~~
- 1674 ~~[(e) It is a defense to prosecution under this section that the computer technician did not~~
- 1675 ~~report the image because the technician reasonably believed the image did not depict a~~
- 1676 ~~person younger than 18 years old.]~~
- 1677 (1)(a) As used in this section, "computer technician" means an individual who in the
- 1678 course and scope of the individual's employment for compensation installs,
- 1679 maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal
- 1680 computer networks, or peripheral equipment.
- 1681 (b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- 1682 (2)(a) An actor commits failure to report child sexual abuse material by a computer
- 1683 technician if:
- 1684 (b) the actor is a computer technician;
- 1685 (c) in the actor's course of employment for compensation the actor views an image on a
- 1686 computer or other electronic device that:
- 1687 (i) is child sexual abuse material;
- 1688 (ii) appears to be child sexual abuse material; or
- 1689 (iii) the actor reasonably believes is child sexual abuse material;
- 1690 (d) the actor willfully fails to immediately report the finding of the image to:
- 1691 (i) a state or local law enforcement agency;
- 1692 (ii) the Cyber Tip Line at the National Center for Missing and Exploited Children; or

- 1693 (iii) an employee designated by the employer of the computer technician in
1694 accordance with Subsection (7).
- 1695 (3) A violation of Subsection (2) a class B misdemeanor.
- 1696 (4) The identity of the computer technician who reports an image that is or appears to be
1697 child sexual abuse material shall be confidential, except as necessary for the criminal
1698 investigation and the judicial process.
- 1699 (5)(a) If a computer technician makes or does not make a report under this section and
1700 is acting in good faith, the technician is immune from any criminal or civil liability
1701 related to reporting or not reporting the image.
- 1702 (b) Good faith described in Subsection (5)(a) may be presumed from a computer
1703 technician's previous course of conduct when the computer technician has made
1704 appropriate reports.
- 1705 (6) It is a defense to prosecution under this section that the computer technician did not
1706 report the image because the computer technician reasonably believed the image did not
1707 depict an individual younger than 18 years old.
- 1708 ~~[(3)]~~ (7)(a) An employer of a computer technician may implement a procedure that
1709 requires:
- 1710 (i) the computer technician report an image as is required under Subsection ~~[(2)(a)]~~
1711 (2) to an employee designated by the employer to receive the report of the image;
1712 and
- 1713 (ii) the designated employee to immediately forward the report provided by the
1714 computer technician to an agency ~~[under Subsection (2)(a)(i)]~~ described in
1715 Subsection (2)(d)(i).
- 1716 (b) Compliance by the computer technician and the designated employee with the
1717 reporting process under Subsection ~~[(3)(a)]~~ (7)(a) is compliance with the reporting
1718 requirement of ~~[this section]~~ Subsection (2)(d) and establishes immunity under
1719 Subsection ~~[(2)(d)]~~ (5)(a).
- 1720 ~~[(4)]~~ (8) This section does not apply to an Internet service provider or interactive computer
1721 service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic
1722 communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications
1723 service, information service, or mobile service as defined in 47 U.S.C. Sec. 153,
1724 including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable
1725 operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in
1726 compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting

1727 by a provider of an image of child sexual abuse material.

1728 Section 33. Section **76-5c-101**, which is renumbered from Section 76-10-1201 is renumbered
1729 and amended to read:

1730 **CHAPTER 5c. PORNOGRAPHIC AND HARMFUL MATERIALS AND PERFORMANCES**

1732 **Part 1. General Provisions**

1733 **[76-10-1201]76-5c-101 . Definitions.**

1734 ~~[For the purpose of]~~ As used in this [part] chapter:

1735 (1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the
1736 lower 2/3 of the material is concealed from view.

1737 (2) "Constructive awareness" means that:

1738 (a) a reasonable inspection or observation by an individual under the circumstances
1739 would have disclosed the nature of the subject matter; and

1740 (b) a failure to inspect or observe by the individual is either for the purpose of avoiding
1741 the disclosure or the individual is criminally negligent.

1742 ~~[(2)]~~ (3) "Contemporary community standards" means those current standards in the
1743 vicinage where an offense alleged under this part has occurred, is occurring, or will
1744 occur.

1745 (4) "Criminally negligent" means the same as that term is defined in Section 76-2-103.

1746 ~~[(3)]~~ (5) "Distribute" means to transfer possession of ~~[materials whether]~~ a material with or
1747 without consideration.

1748 ~~[(4)]~~ (6) "Exhibit" means to show.

1749 ~~[(5)]~~ (7)(a) "Harmful to minors" means that quality of any description or representation,
1750 in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic
1751 abuse when it:

1752 (i) taken as a whole, appeals to the prurient interest in sex of minors;

1753 (ii) is patently offensive to prevailing standards in the adult community as a whole
1754 with respect to what is suitable material for minors; and

1755 (iii) taken as a whole, does not have serious value for minors.

1756 (b) Serious value includes only serious literary, artistic, political or scientific value for
1757 minors.

1758 ~~[(6)]~~ (8)~~[(a)]~~ "Knowingly," regarding material or a performance, means an awareness,
1759 whether actual awareness or constructive awareness, of the character of the material
1760 or performance.

1761 ~~[(b) As used in this Subsection (6), a person has constructive knowledge if a reasonable~~
1762 ~~inspection or observation under the circumstances would have disclosed the nature of~~
1763 ~~the subject matter and if a failure to inspect or observe is either for the purpose of~~
1764 ~~avoiding the disclosure or is criminally negligent as described in Section 76-2-103.]~~

1765 [(7)] (9)(a) "Material" means anything printed or written or any picture, drawing,
1766 photograph, motion picture, or pictorial representation, or any statue or other figure,
1767 or any recording or transcription, or any mechanical, chemical, or electrical
1768 reproduction, or anything which is or may be used as a means of communication.[-]

1769 (b) "Material" includes undeveloped photographs, molds, printing plates, and other
1770 latent representational objects.

1771 [(8)] (10) "Minor" means any person [less] younger than 18 years [of age] old.

1772 [(9)] (11) "Negligently" means simple negligence, the failure to exercise that degree of care
1773 that a reasonable and prudent person would exercise under like or similar circumstances.

1774 [(10)] (12) "Nudity" means:

1775 (a) the showing of the human male or female genitals, pubic area, or buttocks, with less
1776 than an opaque covering;

1777 (b) the showing of a female breast with less than an opaque covering, or any portion of
1778 the female breast below the top of the areola; or

1779 (c) the depiction of covered male genitals in a discernibly turgid state.

1780 [(11)] (13) "Performance" means any physical human bodily activity, whether engaged in
1781 alone or with other persons, including singing, speaking, dancing, acting, simulating, or
1782 pantomiming.

1783 (14) "Pornographic" means:

1784 (a) the average individual, applying contemporary community standards, finds that,
1785 taken as a whole, the material or performance appeals to prurient interest in sex;

1786 (b) the material or performance is patently offensive in the description or depiction of
1787 nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

1788 (c) taken as a whole the material or performance does not have serious literary, artistic,
1789 political or scientific value.

1790 [(12)] (15) "Public place" includes a place to which admission is gained by payment of a
1791 membership or admission fee, however designated, notwithstanding its being designated
1792 a private club or by words of like import.

1793 [(13)] (16) "Sadomasochistic abuse" means:

1794 (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a

1795 mask, or in a revealing or bizarre costume; or
1796 (b) the condition of being fettered, bound, or otherwise physically restrained on the part
1797 of a person clothed as described in Subsection ~~[(13)(a)-]~~ (14)(a).

1798 ~~[(14)]~~ (17) "Sexual conduct" means acts of masturbation, sexual intercourse, or any
1799 touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the
1800 person is a female, breast, whether alone or between members of the same or opposite
1801 sex or between humans and animals in an act of apparent or actual sexual stimulation or
1802 gratification.

1803 ~~[(15)]~~ (18) "Sexual excitement" means a condition of human male or female genitals when
1804 in a state of sexual stimulation or arousal, or the sensual experiences of humans
1805 engaging in or witnessing sexual conduct or nudity.

1806 Section 34. Section **76-5c-102**, which is renumbered from Section 76-10-1203 is renumbered
1807 and amended to read:

1808 ~~[76-10-1203]~~**76-5c-102 . Evidence related to a material's or performance's**
1809 **literary, artistic, political, or scientific value.**

1810 ~~[(1) Any material or performance is pornographic if:]~~

1811 ~~[(a) The average person, applying contemporary community standards, finds that, taken as~~
1812 ~~a whole, it appeals to prurient interest in sex;]~~

1813 ~~[(b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual~~
1814 ~~excitement, sadomasochistic abuse, or excretion; and]~~

1815 ~~[(c) Taken as a whole it does not have serious literary, artistic, political or scientific value.]~~

1816 ~~[(2)]~~ (1) In ~~[prosecutions]~~ a prosecution under this ~~[part]~~ chapter, where circumstances of
1817 production, presentation, sale, dissemination, distribution, exhibition, or publicity
1818 indicate that the matter is being commercially exploited by the ~~[defendant]~~ actor for the
1819 sake of ~~[its]~~ the matter's prurient appeal, this evidence is probative with respect to the
1820 nature of the matter and can justify the conclusion that, in the context in which ~~[it]~~ the
1821 matter is used, the matter has no serious literary, artistic, political, or scientific value.

1822 ~~[(3)]~~ (2) ~~[Neither the prosecution nor the defense shall be]~~ In a prosecution under this chapter
1823 neither the prosecution or the defense is required to introduce expert witness testimony
1824 to testify as to whether [the] a material or performance is or is not harmful to adults or
1825 minors or is or is not pornographic, or as to any element of the definition of
1826 pornographic, including contemporary community standards.

1827 Section 35. Section **76-5c-103**, which is renumbered from Section 76-10-1210 is renumbered
1828 and amended to read:

1829 ~~[76-10-1210]~~ **76-5c-103 . Relation to other state and local laws.**

- 1830 (1)~~(a)~~ It is not the intent of this part to prescribe or limit the regulation of
 1831 ~~pornographic materials or materials harmful to minors, and counties, cities, and other~~
 1832 ~~political subdivisions are specifically given the right to further regulate the materials.]~~
 1833 ~~(b)~~ (a) A county, city, or other political subdivision has the right to regulate pornographic
materials or materials harmful to minors as this chapter does not proscribe or limit the
regulation of pornographic materials or materials harmful to minors by a county, city, or other
political subdivision.
- 1834 (b) Without limitation, a political subdivision may further regulate pornographic
 1835 materials or materials harmful to minors by ordinances relating to:
 1836 (i) zoning;
 1837 (ii) licensing;
 1838 (iii) public nuisances;
 1839 (iv) a specific type of business such as adult bookstores or drive-in movies; or
 1840 (v) use of blinder racks.

1841 (2) ~~[It is not the intent of this part to]~~ This chapter does not preclude the application of other
 1842 laws of this state to pornographic materials or materials harmful to minors~~[-Specifically]~~
 1843 and, without limitation, this [part] chapter is not in derogation of Sections 76-10-803 and
 1844 76-10-806.

1845 (3)(a) The commission of a crime under this ~~[part shall be considered to offend]~~ chapter
 1846 offends public decency under Section 76-10-803.

1847 (b) ~~[-]~~It is the intent of this ~~[part]~~ chapter to give the broadest meaning permissible under
 1848 the ~~[federal and state constitutions]~~ United States Constitution and the Utah
 1849 Constitution to the words "offends public decency" in Section 76-10-803.

1850 Section 36. Section **76-5c-104**, which is renumbered from Section 76-10-1209 is renumbered
 1851 and amended to read:

1852 ~~[76-10-1209]~~ **76-5c-104 . Injunctive relief -- Jurisdiction -- Consent to be sued.**

1853 (1)(a) ~~[The district courts of this state shall have-]~~ Subject to Subsections (1)(b), (c), (d),
 1854 and (e), a district court has full power, authority, and jurisdiction, upon application by
 1855 any county attorney or city attorney within [their] the county attorney's or city
 1856 attorney's respective jurisdictions or the attorney general, to issue any and all proper
 1857 restraining orders, preliminary and permanent injunctions, and any other writs and
 1858 processes appropriate to carry out and enforce the provisions of this ~~[part]~~ chapter.

1859 (b) ~~[-]~~No restraining order or injunction, however, shall issue except upon notice to the

1860 person sought to be enjoined.[-]

1861 (c) [~~That~~] The person [shall be] sought to be enjoined is entitled to a trial of the issues
1862 commencing within three days after [~~filing of an~~] the day on which the answer to the
1863 complaint is filed and a decision by the court [shall be rendered by the court] is
1864 required to be rendered within two days after the conclusion of the trial.[-]

1865 (d) If a final order or judgment of injunction is entered against the person sought to be
1866 enjoined, this final order or judgment shall contain a provision directing the person to
1867 surrender to the sheriff of the county in which the action was brought any
1868 pornographic material in the person's possession which is subject to the injunction[;] .

1869 (e) [~~and the~~] The sheriff receiving the material described in Subsection (1)(d) shall be
1870 directed to seize and destroy [this] the material.

1871 (2) Any person not qualified to do business in the state who sends or brings any
1872 pornographic material into the state with the intent to distribute or exhibit [~~it~~] the
1873 pornographic material to others in this state consents that the person may be sued in any
1874 proceedings commenced under this section.

1875 Section 37. Section **76-5c-105**, which is renumbered from Section 76-10-1207 is renumbered
1876 and amended to read:

1877 **~~[76-10-1207]~~76-5c-105 . Lease void if property used for conduct prohibited by**
1878 **chapter.**

1879 (1) If a tenant or occupant of real property uses [~~this~~] the real property for an activity for
1880 which [~~he or his~~] the tenant or occupant or tenant's or occupant's employee is convicted
1881 under any provision of this [~~part~~] chapter, the conviction makes void the lease or other
1882 title under which [~~he~~] the tenant or occupant holds at the option of the fee owner or any
1883 intermediate lessor[;] .

1884 (2) [~~and 10~~] Subject to Subsection (3), ten days after the day on which the fee owner or [any-]
1885 intermediate lessor gives notice in writing to the tenant or occupant that [he] the fee
1886 owner or intermediate lessor is exercising the option to void the lease or other title as
1887 described in Subsection (1), the right of possession to the property reverts [in] to the [
1888 person] fee owner or intermediate lessor exercising the option.[-]

1889 (3) [~~This-~~] The fee owner's or intermediate lessor's option described in Subsection (2) does
1890 not arise until all avenues of direct appeal from the conviction have been exhausted or
1891 abandoned by the tenant or occupant, or [his] the tenant's or occupant's employee.

1892 [(2) It shall be unlawful for a fee owner or intermediate lessor of real property to
1893 knowingly allow this property to be used for the purpose of distributing or exhibiting

1894 pornographic materials, or for pornographic performances, by a tenant or occupant if the
1895 tenant or occupant, or his employee, has been convicted under any provision of this part
1896 of an offense occurring on the same property and all avenues of direct appeal from the
1897 conviction have been exhausted or abandoned.]

1898 [(a) "Allow" under this subsection (2) means a failure to exercise the option arising under
1899 subsection (1) within 10 days after the fee owner or lessor receives notice in writing
1900 from the county attorney of the county where the property is situated, or if situated in a
1901 city of the first or second class, from the city attorney of that city, that the property is
1902 being used for a purpose prohibited by this subsection (2).]

1903 [(b) A willful violation of this subsection (2) is a class A misdemeanor and any fine
1904 assessed, if not paid within 30 days after judgment, shall become a lien upon the
1905 property.]

1906 [(3) Any tenant or occupant who receives a notice in writing that the fee owner or
1907 intermediate lessor is exercising the option provided by subsection (1) and who does not
1908 quit the premises within 10 days after the giving of that notice is guilty of a class A
1909 misdemeanor.]

1910 Section 38. Section **76-5c-106**, which is renumbered from Section 76-10-1213 is renumbered
1911 and amended to read:

1912 **[76-10-1213] 76-5c-106 . Corporate defendants -- Summons -- Subpoena duces**
1913 **tecum.**

1914 (1)(a) The attendance in court [øf] by a corporation for purposes of commencing or
1915 prosecuting a criminal action against [it] the corporation under this [part] chapter may
1916 be accomplished by the issuance and service of a summons[~~-. A summons shall be-~~
1917 issued by a magistrate if [he] the magistrate finds probable cause that material in the
1918 possession of the corporation [~~against which the summons is sought-~~]is pornographic
1919 or harmful to minors, which finding shall be upon affidavit describing with
1920 specificity the material alleged to be pornographic or harmful to minors or by another
1921 manner or means the magistrate finds necessary.

1922 (b) Where practical, the material alleged to be pornographic or harmful to minors shall
1923 be attached to the affidavit [so as-] described in Subsection (1)(a) to [afford] provide
1924 the magistrate with the opportunity to examine [this] the material.

1925 (c) The summons must be served upon the corporation by delivery of [it] the summons to
1926 an officer, director, managing or general agent, or cashier, or assistant cashier of the
1927 corporation.

1928 (2) The production of material alleged to be pornographic or harmful to minors in any
 1929 proceedings under this ~~[part]~~ chapter against a corporation may be compelled by the
 1930 issuance and service of a subpoena duces tecum.[-]

1931 (3) This section does not prohibit or limit the use of a subpoena duces tecum in proceedings
 1932 against ~~[natural persons]~~ individuals under this ~~[part]~~ chapter.

1933 Section 39. Section **76-5c-107**, which is renumbered from Section 76-10-1212 is renumbered
 1934 and amended to read:

1935 **~~[76-10-1212]~~76-5c-107 . Search and seizure -- Affidavit -- Issuance of warrant --**
 1936 **Hearing upon claim that material seized not pornographic or harmful to minors --**
 1937 **Procedures cumulative.**

1938 (1)(a) An affidavit for a search warrant shall be filed with ~~[the]~~ a magistrate describing
 1939 with specificity the material sought to be seized.[-]

1940 (b) Where practical, the material alleged to be pornographic or harmful to minors shall
 1941 be attached to the affidavit for a search warrant described in Subsection (1)(a) to [
 1942 ~~afford]~~ provide the magistrate with the opportunity to examine ~~[this]~~ the material.

1943 (2)(a) Upon the filing of an affidavit for a search warrant under Subsection (1), the
 1944 magistrate shall determine, by examination of the material sought to be seized if
 1945 attached, by examination of the affidavit describing the material, or by ~~[other]~~ another
 1946 manner or means that ~~[he]~~ the magistrate finds necessary, whether probable cause
 1947 exists to believe that the material is pornographic or harmful to minors and whether
 1948 probable cause exists for the immediate issuance of a search warrant.[-]

1949 (b) Upon making ~~[this]~~ the determination that probable cause exists under Subsection
 1950 (2)(a), ~~[he]~~ the magistrate shall issue a search warrant ordering the seizure of the
 1951 material described in the affidavit for a search warrant according to the provisions of
 1952 the Utah Rules of Criminal Procedure.

1953 (3)(a) If a search warrant is issued under Subsection (2) and the material alleged to be
 1954 pornographic or harmful to minors is seized under the provisions of this section, any
 1955 person claiming to be in possession of this material or claiming ownership of ~~[it]~~ the
 1956 material at the time of ~~[its]~~ the material's seizure may file a notice in writing with the
 1957 magistrate within 10 days after the ~~[date of the seizure]~~ day on which the material was
 1958 seized, ~~[alleging]~~ to assert that the material is not pornographic or harmful to minors.

1959 (b) The magistrate shall set a hearing within seven days after the filing of ~~[this notice]~~ the
 1960 notice described in Subsection (3)(a), or at another time ~~[to which]~~ with the consent of
 1961 the claimant~~[might agree. At this hearing]~~, at which evidence may be presented [as

1962 to] regarding whether there is probable cause to believe that the material seized is
 1963 pornographic or harmful to minors[, and] .[at the conclusion of the hearing the
 1964 magistrate shall make a further determination of whether probable cause exists to
 1965 believe that the material is pornographic or harmful to minors.] .

1966 (c)(i) [A-] At the conclusion of the hearing described in Subsection (3)(b), the
 1967 magistrate shall make a further determination of whether probable cause exists to
 1968 believe that the material is pornographic or harmful to minors.

1969 (ii) [decision] [as to whether there is probable cause to believe the seized material is
 1970 pornographic or harmful to minors-] The magistrate's determination described in
 1971 Subsection (3)(c)(i) shall be rendered by the court within two days after[the
 1972 conclusion of the hearing] the day on which the hearing described in Subsection
 1973 (3)(b) concludes.

1974 (d) If at the hearing described in Subsection (3)(b) the magistrate finds that no probable
 1975 cause exists to believe that the material is pornographic or harmful to minors,[then]
 1976 the material shall be returned to the person[or persons] from whom it was seized.

1977 (e) If the material seized is a film, and the claimant demonstrates that no other copy of
 1978 the film is available to [him] the claimant, the court shall allow the film to be copied
 1979 at the claimant's expense pending the hearing described in Subsection (3)(b).

1980 (4) If a motion to suppress the evidence is granted on the grounds of an unlawful seizure,
 1981 the property shall be restored unless it is subject to confiscation as contraband, in which
 1982 case [it] the property may not be returned.

1983 (5)(a) Procedures under this section for the seizure of allegedly pornographic material
 1984 or material harmful to minors are cumulative of all other lawful means of obtaining
 1985 evidence as provided by the laws of this state.

1986 (b) This section does not prevent the obtaining of allegedly pornographic material or
 1987 material harmful to minors by purchase, subpoena duces tecum, or under injunction
 1988 proceedings as authorized by this act or by any other provision of law of the state.

1989 Section 40. Section **76-5c-108**, which is renumbered from Section 76-10-1215 is renumbered
 1990 and amended to read:

1991 ~~[76-10-1215]~~ **76-5c-108 . Prosecution by county, district, or city attorney.**

1992 (1) [Prosecution] Subject to Subsection (2), a prosecution for a violation [of any section
 1993 of] of this [part] chapter, including for a felony violation, shall be brought by the county
 1994 attorney or, if within a prosecution district, the district attorney of the county where the
 1995 violation occurs.[-]

1996 (2) If ~~[the]~~ a violation occurs~~[-however,]~~ in a city of the first or second class, a prosecution
 1997 may be brought by ~~[either]~~the county attorney, district attorney, or city attorney,
 1998 notwithstanding any provision of law limiting the powers of a city ~~[attorneys-]~~ attorney.

1999 (3) ~~[-]~~All fines imposed for ~~[the]~~ a violation of this ~~[part]~~ chapter shall be paid to the county
 2000 or city ~~[of]~~ where the prosecuting attorney~~[-as the case may be]~~ is located.

2001 Section 41. Section **76-5c-109**, which is renumbered from Section 76-10-1208 is renumbered
 2002 and amended to read:

2003 **[76-10-1208]76-5c-109 . Affirmative defenses.**

2004 (1) It is an affirmative defense to a prosecution under this ~~[part]~~ chapter that the distribution
 2005 of pornographic material is restricted to institutions or persons having scientific,
 2006 educational, governmental, or other similar justification for possessing pornographic
 2007 material.

2008 (2) It is not a defense to a prosecution under this ~~[part]~~ chapter that the actor is a motion
 2009 picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to
 2010 violate this ~~[part]~~ chapter incident to the ~~[person's]~~ actor's employment.

2011 ~~[(3) It is an affirmative defense to prosecution under Section 76-10-1206, 76-10-1227, or~~
 2012 ~~76-10-1228 for displaying or exhibiting an outer portion of material, that the material is:]~~
 2013 ~~[(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the~~
 2014 ~~lower 2/3 of the material is concealed from view;]~~

2015 ~~[(b) placed behind a blinder rack; or]~~

2016 ~~[(c) displayed in an area from which a minor is physically excluded if the material cannot~~
 2017 ~~be viewed by the minor from an area in which a minor is allowed.]~~

2018 Section 42. Section **76-5c-110**, which is renumbered from Section 76-10-1207.5 is renumbered
 2019 and amended to read:

2020 **[76-10-1207.5]76-5c-110 . Exemptions to chapter.**

2021 (1) This ~~[part]~~ chapter does not apply to the Department of Corrections or any
 2022 treatment program by or under contract with the ~~[department]~~ Department of Corrections
 2023 when the use of ~~[sexually explicit-]~~material that is pornographic is limited to the
 2024 assessment or treatment of an offender as defined ~~[under]~~ in Section 64-13-1.

2025 (2) A woman breast feeding, including breast feeding in any location where the woman
 2026 otherwise may rightfully be, does not under any circumstance constitute a violation of
 2027 this chapter, irrespective of whether or not the woman's breast is covered during or
 2028 incidental to feeding.

2029 Section 43. Section **76-5c-111**, which is renumbered from Section 76-10-1211 is renumbered

2030 and amended to read:

2031 **[76-10-1211]76-5c-111 . Severability clause.**

2032 ~~[If any clause, sentence, paragraph, or part of this part or its application to any~~
2033 ~~person or circumstance shall for any reason be adjudged by any court of competent~~
2034 ~~jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the~~
2035 ~~remainder of this part or its application to other persons or circumstances but shall be~~
2036 ~~confined in its operation to the clause, sentence, paragraph, persons, or circumstances, or~~
2037 ~~part thereof directly involved in the controversy in which the judgment shall have been~~
2038 ~~rendered.]~~

2039 (1) If any provision, part, section, or subsection of this chapter or the application of any
2040 provision, part, section, or subsection to any person or circumstance is held invalid by a
2041 final decision of a court, the remainder of this chapter shall be given effect without the
2042 invalid provision, part, section, or subsection or application.

2043 (2) The provisions of this chapter are severable.

2044 Section 44. Section **76-5c-201** is enacted to read:

2045

Part 2. General Offenses

2046 **76-5c-201 . Definitions.**

2047 As used in this part:

2048 (1) "Hosting company" means the same as that term is defined in 76-5c-401.

2049 (2) "Internet service provider" means the same as that term is defined in 76-5c-401.

2050 Section 45. Section **76-5c-202**, which is renumbered from Section 76-10-1204 is renumbered
2051 and amended to read:

2052 **[76-10-1204]76-5c-202 . Distributing pornographic material.**

2053 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

2054 [(+) (2) ~~[A person is guilty of]~~ An actor commits distributing pornographic material~~[-when~~
2055 ~~the person]~~ if the actor knowingly:

2056 (a) sends or brings ~~[any-]~~pornographic material into the state with intent to distribute or
2057 exhibit [it] the pornographic material to ~~[others]~~ another individual;

2058 (b) prepares, publishes, prints, or possesses ~~[any-]~~pornographic material with intent to
2059 distribute or exhibit [it] the pornographic material to ~~[others]~~ another individual;

2060 (c) distributes or offers to distribute, or exhibits or offers to exhibit, ~~[any-]~~pornographic
2061 material to ~~[others]~~ another individual;

2062 (d) writes, creates, or solicits the publication or advertising of pornographic material;

- 2063 (e) promotes the distribution or exhibition of material the [person] actor represents to be
2064 pornographic; or
- 2065 (f) presents or directs a pornographic performance in [any] a public place or [any] a place
2066 exposed to public view or participates in that portion of the performance which
2067 makes [it] the performance pornographic.
- 2068 [~~(2) Each distributing of pornographic material as defined in Subsection (1) is a separate~~
2069 ~~offense.~~]
- 2070 [~~(3) It is a separate offense under this section for:~~]
- 2071 [~~(a) each day's exhibition of any pornographic motion picture film; and]~~
- 2072 [~~(b) each day in which any pornographic publication is displayed or exhibited in a public~~
2073 ~~place with intent to distribute or exhibit it to others.]~~
- 2074 [~~(4)~~] (3)(a) [An offense under this section committed] Except as provided in Subsections
2075 (3)(b), or (c), a violation of Subsection (2) is a third degree felony if the actor is~~[by a~~
2076 ~~person]~~18 years old or older ~~[is a third degree felony punishable by]~~ and is subject to:
- 2077 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
2078 exhibited up to the maximum allowed by law; and
- 2079 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2080 than 30 days.
- 2081 (b) [~~An offense under this section committed by a person]~~ Except as provided in
2082 Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor
2083 is 16 or 17 years old~~[is a class A misdemeanor].~~
- 2084 (c) [~~An offense under this section committed by a person]~~ A violation of Subsection (2)
2085 is a class B misdemeanor if the actor is younger than 16 years old~~[is a class B~~
2086 ~~misdemeanor].~~
- 2087 [(d) ~~Subsection (4)(a) supersedes Section 77-18-105.~~]
- 2088 [~~(5) A person 18 years old or older who knowingly solicits, requests, commands,~~
2089 ~~encourages, or intentionally aids another person younger than 18 years old to engage in~~
2090 ~~conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree felony and~~
2091 ~~is subject to the penalties under Subsection (4)(a).]~~
- 2092 (4) It is a separate offense under this section for:
- 2093 (a) each day's exhibition of a pornographic motion picture film;
- 2094 (b) each day in which a pornographic publication is displayed or exhibited in a public
2095 place with intent to distribute or exhibit the publication to another individual; or
- 2096 (c) each act of distributing of pornographic material described in Subsection (2).

- 2097 [(6)] (5)(a) This section does not apply to an Internet service provider[, as defined in
2098 Section 76-10-1230,] if:
- 2099 (i) the distribution of pornographic material by the Internet service provider occurs
2100 only incidentally through the Internet service provider's function of:
2101 (A) transmitting or routing data from one person to another person; or
2102 (B) providing a connection between one person and another person;
- 2103 (ii) the Internet service provider does not intentionally aid or abet in the distribution
2104 of the pornographic material; and
- 2105 (iii) the Internet service provider does not knowingly receive funds from or through a
2106 person who distributes the pornographic material in exchange for permitting the
2107 person to distribute the pornographic material.
- 2108 (b) This section does not apply to a hosting company[, as defined in Section 76-10-1230,]
2109 if:
- 2110 (i) the distribution of pornographic material by the hosting company occurs only
2111 incidentally through the hosting company's function of providing data storage
2112 space or data caching to a person;
- 2113 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
2114 of the pornographic material; and
- 2115 (iii) the hosting company does not knowingly receive funds from or through a person
2116 who distributes the pornographic material in exchange for permitting the person to
2117 distribute, store, or cache the pornographic material.
- 2118 (6) Subsection (3)(a) supersedes Section 77-18-105.
- 2119 Section 46. Section **76-5c-203** is enacted to read:
- 2120 **76-5c-203 . Aiding or abetting a minor in distributing pornographic material.**
- 2121 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 2122 (2) An actor commits aiding or abetting a minor in distributing pornographic material if the
2123 actor:
- 2124 (a) is 18 years old or older; and
- 2125 (b) knowingly solicits, requests, commands, encourages, or intentionally aids a minor in:
- 2126 (i) sending or brining pornographic material into the state with intent to distribute or
2127 exhibit the pornographic material to another individual;
- 2128 (ii) preparing, publishing, printing, or possessing pornographic material with intent to
2129 distribute or exhibit the pornographic material to another individual;
- 2130 (iii) distributing or offering to distribute, or exhibiting or offering to exhibit,

- 2131 pornographic material to another individual;
- 2132 (iv) writing, creating, or soliciting the publication or advertising of pornographic
- 2133 material;
- 2134 (v) promoting the distribution or exhibition of material the minor represents to be
- 2135 pornographic; or
- 2136 (vi) presenting or directing a pornographic performance in a public place or a place
- 2137 exposed to public view or participates in that portion of the performance which
- 2138 makes the performance pornographic.
- 2139 (3) A violation of Subsection is a third degree felony subject to:
- 2140 (a) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
- 2141 exhibited up to the maximum allowed by law; and
- 2142 (b) incarceration, without suspension of sentence in any way, for a term of not less than
- 2143 30 days.
- 2144 (4)(a) Each act of distributing of pornographic material described in Subsection (2) is a
- 2145 separate offense.
- 2146 (b) It is a separate offense under this section for:
- 2147 (i) each day's exhibition of any pornographic motion picture film; and
- 2148 (ii) each day in which any pornographic publication is displayed or exhibited in a
- 2149 public place with intent to distribute or exhibit the publication to another
- 2150 individual.
- 2151 (5)(a) This section does not apply to an Internet service provider if:
- 2152 (i) the distribution of pornographic material by the Internet service provider occurs
- 2153 only incidentally through the Internet service provider's function of:
- 2154 (A) transmitting or routing data from one person to another person; or
- 2155 (B) providing a connection between one person and another person;
- 2156 (ii) the Internet service provider does not intentionally aid or abet in the distribution
- 2157 of the pornographic material; and
- 2158 (iii) the Internet service provider does not knowingly receive funds from or through a
- 2159 person who distributes the pornographic material in exchange for permitting the
- 2160 person to distribute the pornographic material.
- 2161 (b) This section does not apply to a hosting company if:
- 2162 (i) the distribution of pornographic material by the hosting company occurs only
- 2163 incidentally through the hosting company's function of providing data storage
- 2164 space or data caching to a person;

2165 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
2166 of the pornographic material; and

2167 (iii) the hosting company does not knowingly receive funds from or through a person
2168 who distributes the pornographic material in exchange for permitting the person to
2169 distribute, store, or cache the pornographic material.

2170 (6) Subsection (3) supersedes Section 77-18-105.

2171 Section 47. Section **76-5c-204**, which is renumbered from Section 76-10-1205 is renumbered
2172 and amended to read:

2173 **[76-10-1205] 76-5c-204 . Inducing acceptance of pornographic material.**

2174 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

2175 [(1)] (2) [A person is guilty of] An actor commits inducing acceptance of pornographic
2176 material [when he] if the actor knowingly:

2177 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery for
2178 resale of any newspaper, magazine, periodical, book, publication, or other
2179 merchandise that the purchaser or consignee receive any pornographic material or
2180 material reasonably believed by the purchaser or consignee to be pornographic; or

2181 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty,
2182 financial or otherwise, because of the failure or refusal to accept pornographic
2183 material or material reasonably believed by the purchaser or consignee to be
2184 pornographic.

2185 [(2)] (3)[(a) An offense under this section-] A violation of Subsection (2) is a third
2186 degree felony [punishable by] subject to:

2187 [(i)] (a) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article
2188 exhibited up to the maximum allowed by law; and

2189 [(ii)] (b) incarceration, without suspension of sentence in any way, for a term of not less
2190 than 30 days.

2191 [(b) This Subsection (2) supersedes Section 77-18-105.]

2192 [(3)] (4)(a) This section does not apply to an Internet service provider[, as defined in
2193 Section 76-10-1230,] if:

2194 (i) the distribution of pornographic material by the Internet service provider occurs
2195 only incidentally through the Internet service provider's function of:

2196 (A) transmitting or routing data from one person to another person; or

2197 (B) providing a connection between one person and another person;

2198 (ii) the Internet service provider does not intentionally aid or abet in the distribution

- 2199 of the pornographic material; and
- 2200 (iii) the Internet service provider does not knowingly receive funds from or through a
- 2201 person who distributes the pornographic material in exchange for permitting the
- 2202 person to distribute the pornographic material.
- 2203 (b) This section does not apply to a hosting company[, as defined in Section 76-10-1230,]
- 2204 if:
- 2205 (i) the distribution of pornographic material by the hosting company occurs only
- 2206 incidentally through the hosting company's function of providing data storage
- 2207 space or data caching to a person;
- 2208 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
- 2209 of the pornographic material; and
- 2210 (iii) the hosting company does not knowingly receive funds from or through a person
- 2211 who distributes the pornographic material in exchange for permitting the person to
- 2212 distribute, store, or cache the pornographic material.

2213 (5) Subsection (3) supersedes Section 77-18-105.

2214 Section 48. Section **76-5c-205**, which is renumbered from Section 76-10-1206 is renumbered

2215 and amended to read:

2216 ~~[76-10-1206]~~ **76-5c-205 . Distributing material harmful to minors.**

- 2217 ~~[(1) A person is guilty of dealing in material harmful to minors when, knowing or~~
- 2218 ~~believing that an individual is a minor, or having negligently failed to determine the~~
- 2219 ~~proper age of a minor, the person intentionally:]~~
- 2220 ~~[(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an~~
- 2221 ~~individual whom the person believes to be a minor, any material harmful to minors;]~~
- 2222 ~~[(b) produces, performs, or directs any performance, before a minor or an individual whom~~
- 2223 ~~the person believes to be a minor, that is harmful to minors; or]~~
- 2224 ~~[(c) participates in any performance, before a minor or an individual whom the person~~
- 2225 ~~believes to be a minor, that is harmful to minors.]~~
- 2226 ~~[(2)(a) Except as provided in Subsection (2)(b), each separate offense under this section~~
- 2227 ~~committed by a person 18 years old or older is a third degree felony punishable by:]~~
- 2228 ~~[(i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited~~
- 2229 ~~up to the maximum allowed by law; and]~~
- 2230 ~~[(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.]~~
- 2231 ~~[(b) Each separate offense under this section committed by a person 18 years old or older~~
- 2232 ~~against a minor 16 years old or older, but younger than 18 years old, is a class A~~

- 2233 misdemeanor if the person is less than seven years older than the minor at the time of the
2234 offense.]
- 2235 ~~[(e) Each separate offense under this section committed by a person 16 or 17 years old is a~~
2236 ~~class A misdemeanor.]~~
- 2237 ~~[(d) Each separate offense under this section committed by a person younger than 16 years~~
2238 ~~old is a class B misdemeanor.]~~
- 2239 ~~[(e) Subsection (2)(a) supersedes Section 77-18-105.]~~
- 2240 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 2241 (2) An actor commits distributing material harmful to minors if the actor:
- 2242 (a)(i) intentionally distributes or offers to distribute, or exhibits or offers to exhibit,
2243 material harmful to minors to an individual;
- 2244 (ii) intentionally produces, performs, or directs any performance, before an individual
2245 that is harmful to minors; or
- 2246 (iii) intentionally participates in a performance before an individual that is harmful to
2247 minors; and
- 2248 (b)(i) knows or believes the individual described in Subsection (2)(a) is a minor; or
2249 (ii) negligently fails to determine if the individual described in Subsection (2)(a) is a
2250 minor and the individual is a minor.
- 2251 (3)(a) Except as provided in Subsection (3)(b), (c), (d), or (e), a violation of Subsection
2252 (2) is a second degree felony if the actor is 18 years old or older and has previously
2253 been convicted or adjudicated of a violation of Subsection (2) and is subject to:
- 2254 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
2255 exhibited up to the maximum allowed by law; and
- 2256 (ii) incarceration, without suspension of sentence, for a term of not less than one year.
- 2257 (b) Except as provided in Subsection (3)(c), (d), or (e), a violation of Subsection (2) is a
2258 third degree felony if:
- 2259 (i) the actor is 18 years old or older and is subject to:
- 2260 (A) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
2261 exhibited up to the maximum allowed by law; and
- 2262 (B) incarceration, without suspension of sentence, for a term of not less than 14
2263 days; or
- 2264 (ii) the actor is younger than 18 years old and has previously been convicted of a
2265 violation of Subsection (2).
- 2266 (c) Except as provided in Subsection (3)(d) or (e), a violation of Subsection (2) is a class

2267 A misdemeanor if the actor is 18 years old or older and the minor described in
2268 Subsection (2) is 16 years old or older, but younger than 18 years old, and the actor is
2269 less than seven years older than the minor at the time of the offense.

2270 (d) Except as provided in Subsection (3)(e), a violation of Subsection (2) is a class A
2271 misdemeanor if the actor is 16 years old or 17 years old.

2272 (e) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than
2273 16 years old.

2274 [~~(3)~~] (4)[~~(a)~~] Except for a defendant described in Subsection (2)(b), if a defendant 18
2275 years old or older has been previously convicted or adjudicated by the juvenile court
2276 under this section, each separate subsequent offense is a second degree felony
2277 punishable by:]

2278 [(i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
2279 exhibited up to the maximum allowed by law; and]

2280 [(ii) incarceration, without suspension of sentence, for a term of not less than one year.]

2281 [(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years
2282 old has been previously convicted or adjudicated by the juvenile court under this
2283 section, each separate subsequent offense is a third degree felony.]

2284 [(e) Subsection (3)(a) supersedes Section 77-18-105.]

2285 [(d)] (a)[(i)] This section does not apply to an Internet service provider[~~, as defined in~~
2286 ~~Section 76-10-1230~~], a provider of an electronic communications service as
2287 defined in 18 U.S.C. Sec. 2510, a telecommunications service, information
2288 service, or mobile service as defined in 47 U.S.C. Sec. 153, including a
2289 commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable
2290 operator as defined in 47 U.S.C. Sec. 522, if:

2291 [(A)] (i) the distribution of pornographic material by the Internet service provider
2292 occurs only incidentally through the provider's function of:

2293 [(H)] (A) transmitting or routing data from one person to another person; or
2294 [(H)] (B) providing a connection between one person and another person;

2295 [(B)] (ii) the provider does not intentionally aid or abet in the distribution of the
2296 pornographic material; and

2297 [(C)] (iii) the provider does not knowingly receive from or through a person who
2298 distributes the pornographic material a fee greater than the fee generally charged
2299 by the provider, as a specific condition for permitting the person to distribute the
2300 pornographic material.

- 2301 [(ii)] (b) This section does not apply to a hosting company[, as defined in Section
2302 76-10-1230,] if:
- 2303 [(A)] (i) the distribution of pornographic material by the hosting company occurs only
2304 incidentally through the hosting company's function of providing data storage
2305 space or data caching to a person;
- 2306 [(B)] (ii) the hosting company does not intentionally engage, aid, or abet in the
2307 distribution of the pornographic material; and
- 2308 [(C)] (iii) the hosting company does not knowingly receive from or through a person
2309 who distributes the pornographic material a fee greater than the fee generally
2310 charged by the provider, as a specific condition for permitting the person to
2311 distribute, store, or cache the pornographic material.
- 2312 [(4)] (5) [~~A service provider, as defined in Section 76-10-1230,~~] An Internet service
2313 provider is not negligent under this section if the Internet service provider complies with
2314 Section [76-10-1231] 76-5c-402.
- 2315 [(5) ~~A person 18 years old or older who knowingly solicits, requests, commands,~~
2316 ~~encourages, or intentionally aids another person younger than 18 years old to engage in~~
2317 ~~conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to~~
2318 ~~the penalties under Subsection (2)(a).]~~
- 2319 (6) It is an affirmative defense to a prosecution for a violation of this section if the violation
2320 arises from displaying or exhibiting an outer portion of material that the material is:
2321 (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that
2322 the lower 2/3 of the material is concealed from view;
2323 (b) placed behind a blinder rack; or
2324 (c)(i) displayed in an area from which a minor is physically excluded; and
2325 (ii) the material cannot be viewed by the minor from an area where the minor is
2326 allowed.
- 2327 (7) Subsection (3)(a) and (3)(b)(i) supersede Section 77-18-105.
2328 Section 49. Section 76-5c-206 is enacted to read:
2329 **76-5c-206 . Aiding or abetting a minor in distributing material harmful to**
2330 **minors.**
- 2331 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
2332 (2) An actor commits aiding or abetting a minor in distributing material harmful to minors
2333 if:
2334 (a) the actor is 18 years old or older; and

- 2335 (b) the actor knowingly solicits, requests, commands, encourages, or intentionally aids a
2336 minor to:
- 2337 (i) intentionally distribute or offer to distribute, or exhibit or offer to exhibit, material
2338 harmful to minors to an individual;
- 2339 (ii) intentionally produce, perform, or direct any performance, before an individual
2340 that is harmful to minors; or
- 2341 (iii) intentionally participate in any performance, before an individual that is harmful
2342 to minors; and
- 2343 (c)(i) the minor described in Subsection (2)(b) knows or believes the individual
2344 described in Subsection (2)(b)(i) through (iii) is a minor; or
- 2345 (ii) the minor described in Subsection (2)(b) negligently fails to determine if the
2346 individual described in Subsection (2)(b)(i) through (iii) is a minor and the
2347 individual is a minor.
- 2348 (3) A violation of Subsection (2) is a third degree felony subject to:
- 2349 (a) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
2350 exhibited up to the maximum allowed by law; and
- 2351 (b) incarceration, without suspension of sentence, for a term of not less than one year
- 2352 (4)(a) This section does not apply to an Internet service provider, a provider of an
2353 electronic communications service as defined in 18 U.S.C. Sec. 2510, a
2354 telecommunications service, information service, or mobile service as defined in 47
2355 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec.
2356 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:
- 2357 (i) the distribution of pornographic material by the Internet service provider occurs
2358 only incidentally through the provider's function of:
- 2359 (A) transmitting or routing data from one person to another person; or
2360 (B) providing a connection between one person and another person;
- 2361 (ii) the provider does not intentionally aid or abet in the distribution of the
2362 pornographic material; and
- 2363 (iii) the provider does not knowingly receive from or through a person who
2364 distributes the pornographic material a fee greater than the fee generally charged
2365 by the provider, as a specific condition for permitting the person to distribute the
2366 pornographic material.
- 2367 (b) This section does not apply to a hosting company if:
- 2368 (i) the distribution of pornographic material by the hosting company occurs only

- 2369 incidentally through the hosting company's function of providing data storage
2370 space or data caching to a person;
- 2371 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
2372 of the pornographic material; and
- 2373 (iii) the hosting company does not knowingly receive from or through a person who
2374 distributes the pornographic material a fee greater than the fee generally charged
2375 by the provider, as a specific condition for permitting the person to distribute,
2376 store, or cache the pornographic material.
- 2377 (5) An Internet service provider is not negligent under this section if the Internet service
2378 provider complies with Section 76-5c-402.
- 2379 (6) It is an affirmative defense to prosecution for a violation of this section if the violation
2380 arises from displaying or exhibiting an outer portion of material that the material is:
- 2381 (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that
2382 the lower 2/3 of the material is concealed from view;
- 2383 (b) placed behind a blinder rack; or
- 2384 (c)(i) displayed in an area from which a minor is physically excluded; and
2385 (ii) the material cannot be viewed by the minor from an area where the minor is
2386 allowed.
- 2387 (7) Subsection (3) supersedes Section 77-18-105.
- 2388 Section 50. Section **76-5c-207**, which is renumbered from Section 76-10-1228 is renumbered
2389 and amended to read:
- 2390 **[76-10-1228] 76-5c-207 . Indecent public display in the presence of a minor.**
- 2391 (1)(a) As used in this section:
- 2392 (i) "Description or depiction of illicit sex or sexual immorality" means:
- 2393 (A) human genitals in a state of sexual stimulation or arousal;
- 2394 (B) acts of human masturbation, sexual intercourse, or sodomy;
- 2395 (C) fondling or other erotic touching of human genitals or pubic region; or
- 2396 (D) fondling or other erotic touching of the human buttock or female breast.
- 2397 (ii) "Serious value" means having serious literary, artistic, political, or scientific value
2398 for minors, taking into consideration the ages of all minors who could be exposed
2399 to the material.
- 2400 (iii) "Nude or partially denuded figure" means:
- 2401 (A) less than completely and opaquely covering human:
- 2402 (I) genitals;

- 2403 (II) pubic regions;
 2404 (III) buttocks; or
 2405 (IV) female breasts below a point immediately above the top of the areola; or
 2406 (B) human male genitals in a discernibly turgid state, even if completely and
 2407 opaquely covered.
- 2408 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
 2409 section.
- 2410 ~~[(1)]~~ (2) ~~[Subject to the affirmative defense in Subsection 76-10-1208(3), a person is guilty~~
 2411 ~~of a class A misdemeanor who-]~~ An actor commits indecent public display in the
 2412 presence of a minor if the actor willfully or knowingly:
- 2413 (a) engages in the business of selling, lending, giving away, showing, advertising for
 2414 sale, or distributing to a minor or has in the ~~[person's]~~ actor's possession with intent to
 2415 engage in that business or to otherwise offer for sale or commercial distribution to a
 2416 minor any material with:
- 2417 (i) a description or depiction of illicit sex or sexual immorality; or
 2418 (ii) a nude or partially denuded figure; or
- 2419 (b) publicly displays at ~~[newsstands]~~ a newsstand or ~~[any other]~~ another establishment
 2420 frequented by minors, or where the minors are or may be invited as a part of the
 2421 general public~~;~~ :
- 2422 (i)(A) ~~[-any]~~ a motion picture~~[-or]~~ ;
 2423 (B) ~~[-any]~~ a live, taped, or recorded performance~~[-or]~~ ;
 2424 (C) ~~[-any]~~ a still picture or photograph~~;~~ ; or
 2425 (D) ~~[-any]~~ a book, pocket book, pamphlet, or magazine~~[-the cover or content of~~
 2426 which~~;~~ ;and
- 2427 ~~[(1)]~~ (ii) the cover or content of the items described in Subsection (2)(b)(i):
- 2428 (A) exploits, is devoted to, or is principally made up of ~~[one or more descriptions~~
 2429 ~~or depictions]~~ a description or depiction of illicit sex or sexual immorality; or
 2430 ~~[(1)]~~ (B) consists of ~~[one or more pictures]~~ a picture of nude or partially denuded
 2431 figures.
- 2432 ~~[(2)]~~ (3)~~[(a)]~~ A violation of this section is ~~[punishable by]~~ a class A misdemeanor subject
 2433 to:
- 2434 ~~[(1)]~~ (a) a minimum mandatory fine of not less than \$500; and
 2435 ~~[(1)]~~ (b) incarceration, without suspension of sentence in any way, for a term of not less
 2436 than 30 days.

2437 ~~[(b) This section supersedes Section 77-18-105.]~~

2438 (4) It is an affirmative defense to prosecution for a violation of this section if the violation
2439 arises from displaying or exhibiting an outer portion of material that the material is:

2440 (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that
2441 the lower 2/3 of the material is concealed from view;

2442 (b) placed behind a blinder rack; or

2443 (c)(i) displayed in an area from which a minor is physically excluded; and

2444 (ii) the material cannot be viewed by the minor from an area where the minor is
2445 allowed.

2446 (5) This section does not apply to any material which, when taken as a whole, has serious
2447 value for minors, however, a description or depiction of illicit sex or sexual immorality
2448 has no serious value for minors.

2449 (6) This section supersedes Section 77-18-105.

2450 Section 51. Section **76-5c-208**, which is renumbered from Section 76-10-1235 is renumbered
2451 and amended to read:

2452 **[76-10-1235] 76-5c-208 . Creating, viewing, or accessing pornographic or**
2453 **indecent material on school property.**

2454 (1)(a) As used in this section:

2455 (i) "Description or depiction of illicit sex or sexual immorality" means the same as
2456 that term is defined in Section 76-5c-207.

2457 (ii) "Nude or partially denuded figure" means the same as that term is defined in
2458 Section 76-5c-207.

2459 [(a)] (iii) "Pornographic or indecent material" means any material that:

2460 [(i)] (A) [defined as -] is harmful to minors[in Section 76-10-1201];

2461 [(ii)] (B) [described as -] is pornographic[in Section 76-10-1203];[-or]

2462 [(iii)] (C) [described in Section 76-10-1227] is a description of or depiction of illicit
2463 sex or sexual immorality; or

2464 (D) contains a nude or partially denuded figure.

2465 [(b)] (iv) "School property" means property, including land and improvements, that a
2466 school district or charter school owns, leases, or occupies.

2467 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
2468 section.

2469 (2) ~~[Except as provided in Subsection (3), a person is guilty of -]~~ Under circumstances not
2470 amounting to an offense listed in Subsection (4), an actor commits creating, viewing, or

2471 accessing pornographic or indecent material on school property ~~[when] if the [person]~~
 2472 ~~actor~~ willfully or knowingly creates, views, or otherwise gains access to pornographic or
 2473 indecent material while present on school property~~[-, under circumstances not amounting~~
 2474 ~~to an attempted or actual violation of:] .~~

2475 ~~[(a) distributing pornographic material as specified in Section 76-10-1204;]~~

2476 ~~[(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;]~~

2477 ~~[(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or]~~

2478 ~~[(d) indecent public displays as specified in Section 76-10-1228.]~~

2479 ~~[(3) This section does not apply to school or law enforcement personnel when the access to~~
 2480 ~~pornographic or indecent material on school property is limited to:]~~

2481 ~~[(a) investigation of a violation of this section; or]~~

2482 ~~[(b) enforcement of this section.]~~

2483 ~~[(4) Each separate offense under this section is:]~~

2484 ~~[(a) a class A misdemeanor if the person is 18 years of age or older; and]~~

2485 ~~[(b) a class B misdemeanor if the person is under 18 years of age.]~~

2486 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
 2487 misdemeanor if the actor is 18 years old or older.

2488 (b) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than
 2489 18 years old.

2490 (4) The offenses referred to in Subsection (2) are:

2491 (a) distributing pornographic material as specified in Section 76-10-1204;

2492 (b) inducing acceptance of pornographic material as specified in Section 76-10-1205;

2493 (c) dealing in material harmful to a minor as specified in Section 76-10-1206; or

2494 (d) indecent public displays as specified in Section 76-10-1228

2495 (5) This section does not:

2496 (a) [-]prohibit disciplinary action for actions that violate this section[-:] ; or

2497 (b) apply to school or law enforcement personnel when the school or law enforcement
 2498 personnel views or otherwise gains access to pornographic or indecent material while
 2499 on school property for the limited purpose of:

2500 (i) investigating a violation of this section; or

2501 (ii) enforcing this section.

2502 Section 52. Section **76-5c-209**, which is renumbered from Section 76-10-1236 is renumbered
 2503 and amended to read:

2504 **[76-10-1236]76-5c-209 . Possession of a child sex doll.**

2505 (1)(a) As used in this section, "child sex doll" means a doll, mannequin, or robot:
2506 [(a)] (i) ~~an~~ that is anatomically correct~~[doll, mannequin, or robot]~~, with the features
2507 of, or with features that resemble those of, a minor; and
2508 [(b)] (ii) that is intended for use in sexual acts.

2509 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
2510 section.

2511 (2) An actor commits ~~[the offense of]~~possession of a child sex doll if the actor knowingly
2512 or intentionally possesses a child sex doll.

2513 (3) A violation of Subsection (2) is a class A misdemeanor, with a mandatory fine of not
2514 less than \$2,500.

2515 Section 53. Section **76-5c-210**, which is renumbered from Section 76-10-1237 is renumbered
2516 and amended to read:

2517 ~~[76-10-1237]~~ **76-5c-210 . Distributing or purchasing a child sex doll.**

2518 (1)(a) As used in this section:

2519 [(a)] (i) "Child sex doll" means the same as that term is defined in Section ~~[76-10-1236]~~
2520 76-5c-209.

2521 [(b)] (ii) "Distribute" means to sell, or with or without consideration, offer to sell,
2522 advertise, provide, ship, deliver for shipment, offer to deliver for shipment, or
2523 transfer.

2524 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
2525 section.

2526 (2) An actor commits ~~[the offense of]~~distributing or purchasing a child sex doll if the actor
2527 knowingly, intentionally, or recklessly distributes, purchases, or offers to purchase a
2528 child sex doll.

2529 (3) A violation of Subsection (2) is a third degree felony, with a mandatory fine of not less
2530 than \$10,000.

2531 Section 54. Section **76-5c-211**, which is renumbered from Section 76-10-1238 is renumbered
2532 and amended to read:

2533 ~~[76-10-1238]~~ **76-5c-211 . Deactivation of a pornography device filter on a minor's**
2534 **device.**

2535 ~~[(1)(a) An adult individual, other than the parent or legal guardian of the minor in~~
2536 ~~possession of a device, who intentionally disables the filter required under Section~~
2537 ~~78B-6-2602 on a device in possession of a minor for the purpose of disseminating~~
2538 ~~pornography to the minor, commits a class A misdemeanor.]~~

2539 ~~[(b) For each offense of Subsection (1)(a), the violator is subject to a fine in an amount not~~
2540 ~~to exceed \$2,500.]~~

2541 ~~[(2) A person who has a prior conviction under this section, who commits a subsequent~~
2542 ~~violation of Subsection (1)(a), is guilty of a third degree felony and shall, for each~~
2543 ~~separate offense, be fined in an amount not to exceed \$5,000 and may be imprisoned for~~
2544 ~~zero to five years.]~~

2545 (1)(a) As used in this section, "device" means the same as that term is defined in
2546 78B-2-2601.

2547 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
2548 section.

2549 (2) An actor commits deactivation of a pornography device filter on a minor's device if the
2550 actor:

2551 (a) is 18 years old or older;

2552 (b) intentionally disables the filter required under Section 78B-6-2602 that is on a device
2553 in the possession of a minor;

2554 (c) disabled the filter for the purpose of disseminating pornography to the minor
2555 described in Subsection (3)(b); and

2556 (d) is not the parent or legal guardian of the minor described in Subsection (3)(b).

2557 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
2558 misdemeanor subject to a fine of not more than \$2,500.

2559 (b) A violation of Subsection (2) is a third degree felony subject to a fine of not more
2560 than \$5,000 if the actor has previously been convicted of a violation of Subsection (2).

2561 Section 55. Section **76-5c-212** is enacted to read:

2562 **76-5c-212 . Fee owner or intermediate lessor allowing real property to be used**
2563 **for illicit pornographic purposes.**

2564 (1)(a) As used in this section, "allow" means a failure to exercise the option to void the
2565 lease or other title described in Section 76-5c-105 within 10 days after the day on
2566 which the fee owner or lessor receives notice in writing from the county attorney of
2567 the county where the property is situated, or if situated in a city of the first or second
2568 class, from the city attorney of that city, that the property is being used for a purpose
2569 prohibited under this chapter.

2570 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
2571 section.

2572 (2) An actor commits fee owner or intermediate lessor allowing real property to be used for

2573 pornographic purposes if the actor:

2574 (a) is a fee owner or intermediate lessor of real property;

2575 (b) knowingly allows the real property described in Subsection (2)(a) to be used by a
2576 tenant or occupant, or a tenant's or occupant's employee, for the purpose of
2577 distributing or exhibiting pornographic materials, or for pornographic performances;
2578 and

2579 (c) the tenant or occupant, or the tenant's or occupant's employee, has been convicted of
2580 a violation of this chapter for an offense that occurred on the property and all avenues
2581 of direct appeal from the conviction have been exhausted or abandoned.

2582 (3) A violation of Subsection (2) is a class A misdemeanor.

2583 (4) Any fine assessed for a conviction under this section becomes a lien upon the real
2584 property described in Subsection (2)(a), if the fine is not paid within 30 days after the
2585 day on which the judgment is entered

2586 Section 56. Section **76-5c-213** is enacted to read:

2587 **76-5c-213 . Tenant or occupant failing to exit real property after using the**
2588 **property for pornographic purposes.**

2589 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

2590 (2) An actor commits tenant or occupant failing to exit real property after using the property
2591 for pornographic purposes if the actor:

2592 (a) is a tenant or occupant of real property;

2593 (b) received notice in writing that the fee owner or intermediate lessor of the real
2594 property is exercising the option to void the lease or other title described in Section
2595 76-5c-105; and

2596 (c) does not permanently exit the premises within 10 days after the day on which the
2597 actor received the notice described in Subsection (2)(b).

2598 (3) A violation of Subsection (2) is a class A misdemeanor.

2599 Section 57. Section **76-5c-214**, which is renumbered from Section 76-10-1214 is renumbered
2600 and amended to read:

2601 **[76-10-1214] 76-5c-214 . Conspiracy to commit a pornographic or harmful**
2602 **materials violation.**

2603 [(1)(a) A conspiracy of two or more persons to commit any offense proscribed by this part
2604 is a third-degree felony punishable for each separate offense by a minimum mandatory
2605 fine of not less than \$1,000 and by imprisonment, without suspension of sentence in any
2606 way, for a term of not less than 60 days.]

2607 ~~[(b) This subsection supersedes Section 77-18-105.]~~

2608 ~~[(2)(a) If a defendant has already been convicted once under this section, each separate~~
 2609 ~~further offense is a second degree felony punishable by a minimum mandatory fine of~~
 2610 ~~not less than \$5,000 and by imprisonment, without suspension of sentence in any way,~~
 2611 ~~for a term of not less than one year.]~~

2612 ~~[(b) This subsection supersedes Section 77-18-105.]~~

2613 ~~(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.~~

2614 ~~(2) An actor commits conspiracy to commit a pornographic or harmful materials violation if~~
 2615 ~~the actor conspires with two or more person to commit a violation of this chapter.~~

2616 ~~(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third~~
 2617 ~~degree felony subject to:~~

2618 ~~(i) a minimum mandatory fine of not less than \$1,000; and~~

2619 ~~(ii) incarceration, without suspension of the sentence in any way, for a term of not~~
 2620 ~~less than 60 days.~~

2621 ~~(b) A violation of Subsection (2) is a second degree felony if the actor has previously~~
 2622 ~~been convicted of a violation of Subsection (2) and is subject to:~~

2623 ~~(i) a minimum mandatory fine of not less than \$5,000; and~~

2624 ~~(ii) incarceration, without suspension of the sentence in any way, for a term of not~~
 2625 ~~less than one year.~~

2626 ~~(4) Subsection (3) supersedes Section 77-18-105.~~

2627 Section 58. Section **76-5c-301**, which is renumbered from Section 76-10-1216 is renumbered
 2628 and amended to read:

2629 **Part 3. Distribution and Exhibition of Motion Picture Films**

2630 **~~[76-10-1216] 76-5c-301 . Definitions.~~**

2631 As used in this [aet] part:

2632 (1) "Exhibit" means to show in a public place or in a place where the public is admitted,
 2633 whether or not an admission fee is charged.

2634 (2)(a) "Distributor" means [any] a person from which a film is acquired by sale, lease,
 2635 loan, or any other means, directly or indirectly, for the purpose of exhibiting [it] the
 2636 film in this state or elsewhere.

2637 (b) [~~but shall~~] "Distributor" does not include [any] a person whose function with respect
 2638 to [any] a film is limited to the transportation or storage [~~thereof~~] of the film.

2639 (3) "Film" means what is usually known as a motion picture film and [~~which~~] that is

2640 intended to be shown commercially for profit by devices of any kind whatsoever.

2641 (4) "Person" includes ~~[a natural person]~~ an individual, firm, association, partnership, or
2642 corporation.

2643 (5) "Public place" includes ~~[any]~~ a place ~~[to which]~~ that admission is gained by payment of a
2644 membership or admission fee, however designated, notwithstanding it is designated as a
2645 private club or by words of like import.

2646 Section 59. Section **76-5c-302**, which is renumbered from Section 76-10-1217 is renumbered
2647 and amended to read:

2648 **~~[76-10-1217]~~76-5c-302 . Intent of part -- Exemptions from part.**

2649 (1) It is the intent of this ~~[act]~~ part to prevent the commercial distribution and exhibition of
2650 films in this state which are pornographic.~~[-]~~

2651 (2) ~~[There-]~~ The Legislature finds that there is substantial evidence that elements of
2652 organized crime have engaged to an increasing degree in the production and distribution
2653 of ~~[such]~~ pornographic films and, therefore, it is the further intent of this ~~[act]~~ part to
2654 facilitate the criminal prosecution of distributors of pornographic films.

2655 ~~[(2)]~~ (3) It is not the intent of this act to:

2656 (a) ~~[-]~~limit the regulation of films by counties, cities, towns, and other political
2657 subdivisions ~~[within]~~ of the state, ~~[and these]~~ as these political subdivisions are
2658 specifically given the right by this ~~[act]~~ part to further regulate films~~[- Nor is it the~~
2659 ~~intent of this act to-]~~ ; or

2660 (b) limit or abridge the power to otherwise prosecute violations of any other provisions
2661 of law including~~[- but not limited to-]~~ those provisions of ~~[Title 76, Chapter 10, Part~~
2662 ~~12, Pornographic and Harmful Materials and Performances]~~ this chapter.

2663 (4) This part does not apply to a film:

2664 (a) distributed to or exhibited by any accredited university, college, school, library, or
2665 other educational institution, church, or museum, if there is scientific, religious, or
2666 educational justification for the exhibition of the film; or

2667 (b) exhibited by the Department of Corrections or exhibited as part of any treatment
2668 program operated by or under contract with the department if the exhibition of the
2669 film is solely for the assessment or treatment of an offender as defined under Section
2670 64-13-1.

2671 Section 60. Section **76-5c-303**, which is renumbered from Section 76-10-1219 is renumbered
2672 and amended to read:

2673 **~~[76-10-1219]~~76-5c-303 . Qualification for distribution of films.**

- 2674 (1) A distributor [~~which~~] that is a corporation shall be qualified to distribute films within
 2675 this state if:
- 2676 (a) [~~it~~] the corporation is a domestic corporation in good standing or a foreign
 2677 corporation authorized to transact business in this state; and
- 2678 (b) [~~it~~] the corporation submits [~~itself~~] the corporation to the jurisdiction and laws of this
 2679 state relating to being a distributor in this state.
- 2680 (2) A distributor which is not a corporation shall be qualified to distribute films within this
 2681 state if:
- 2682 (a) [~~it~~] the distributor has and continuously maintains a registered office in this state; and
- 2683 (b) [~~it~~] the distributor has a registered agent whose business address is at that registered
 2684 office and which is either an individual residing and domiciled in this state, a
 2685 domestic corporation in good standing, or a foreign corporation authorized to transact
 2686 business in this state.
- 2687 (3) This section [~~shall~~] does not affect the right to serve [~~any~~] process, a notice, or a
 2688 demand, required or permitted by law to be served upon a distributor, in any other
 2689 manner provided by law.

2690 Section 61. Section **76-5c-304**, which is renumbered from Section 76-10-1220 is renumbered
 2691 and amended to read:

2692 **[76-10-1220] 76-5c-304 . Change of registered office or agent by film distributor**
 2693 **-- Service of process, notice, or demand on registered agent.**

- 2694 (1) A distributor qualified to distribute films in this state may change [~~its~~] the
 2695 distributor's registered office or registered agent in accordance with Title 16, Chapter 17,
 2696 Model Registered Agents Act.
- 2697 (2) Any process, notice, or demand required or permitted by law to be served upon the
 2698 distributor may be served upon the registered agent of that distributor.

2699 Section 62. Section **76-5c-305**, which is renumbered from Section 76-10-1222 is renumbered
 2700 and amended to read:

2701 **[76-10-1222] 76-5c-305 . Distribution of a pornographic film for exhibition.**

- 2702 [~~(1) Any person who knowingly or by criminal negligence distributes for exhibition within~~
 2703 ~~this state a film which is pornographic as that term is defined in the Utah criminal code~~
 2704 ~~shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined~~
 2705 ~~not less than \$1,000 and imprisoned, without suspension of sentence in any way, for a~~
 2706 ~~term of not less than 60 days.]~~
- 2707 [(2) Any person convicted of a violation of this section who has been convicted before of a

2708 violation of this section, shall be guilty of a felony of the third degree and shall, for each
2709 separate offense, be fined not less than \$5,000 and imprisoned, without suspension of
2710 sentence in any way, for a term of not less than six months.]

2711 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

2712 (2) An actor commits distribution of a pornographic film for exhibition if the actor
2713 knowingly or with criminal negligence distributes a film for exhibition that is
2714 pornographic.

2715 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
2716 misdemeanor subject to:

2717 (i) a fine not less than \$1,000; and

2718 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2719 than 60 days.

2720 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
2721 convicted of a violation of Subsection (2) and is subject to:

2722 (i) a fine not less than \$5,000; and

2723 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2724 than six months.

2725 (4) It is an affirmative defense to a prosecution under this section that the distribution or
2726 exhibition of a film is exempt from the restrictions of this part described in Section
2727 76-5c-302.

2728 (5) It is not a defense to a prosecution under this section that the actor was a motion picture
2729 projectionist or was otherwise required by the actor's employment to commit the
2730 violation.

2731 ~~[(3)]~~ (6) Each copy of a pornographic film distributed for exhibition [within this state] in
2732 violation of this section [shall constitute] is a separate offense.

2733 Section 63. Section **76-5c-306**, which is renumbered from Section 76-10-1223 is renumbered
2734 and amended to read:

2735 **[76-10-1223]76-5c-306 . Distributing a film without being qualified.**

2736 ~~[(1) Any person who knowingly distributes any film for exhibition within this state without~~
2737 ~~being qualified to do so, or who knowingly exhibits a film in this state which has not~~
2738 ~~been acquired from a distributor qualified to distribute films in this state is guilty of a~~
2739 ~~class B misdemeanor and shall, for each separate offense, be fined not less than \$299~~
2740 ~~and imprisoned, without suspension of sentence in any way, for a term of not less than~~
2741 ~~30 days.]~~

2742 ~~[(2) Any person convicted of a violation of this section, who has been convicted before of~~
2743 ~~a violation of this section, shall be guilty of a class A misdemeanor and shall, for each~~
2744 ~~separate offense, be fined not less than \$1,000 and imprisoned, without suspension of~~
2745 ~~sentence in any way, for a term of not less than 60 days.]~~

2746 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

2747 (2) An actor commits distributing a film without being qualified if the actor knowingly:

2748 (a) distributes a film for exhibition; and

2749 (b) is not qualified to distribute a film for exhibition.

2750 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
2751 misdemeanor subject to:

2752 (i) a fine not less than \$299; and

2753 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2754 than 30 days.

2755 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
2756 been convicted of a violation of Subsection (2) and is subject to:

2757 (i) a fine not less than \$1,000; and

2758 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2759 than 60 days.

2760 (4) It is an affirmative defense to a prosecution under this section that the distribution of a
2761 film is exempt from the restrictions of this act described in Section 76-5c-302.

2762 (5) It is not a defense to a prosecution under this section that the actor was a motion picture
2763 projectionist or was otherwise required by the actor's employment to commit the
2764 violation.

2765 ~~[(3)]~~ (6) Each day's exhibition of [such] a film, and each copy of a film distributed for
2766 exhibition[within this state, shall constitute] in violation of this section is a separate
2767 offense.

2768 Section 64. Section **76-5c-307** is enacted to read:

2769 **76-5c-307 . Improperly exhibiting a film.**

2770 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

2771 (2) An actor commits improperly exhibiting a film if the actor knowingly:

2772 (a) exhibits a film; and

2773 (b) did not acquire the film from a distributor qualified to distribute a film.

2774 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
2775 misdemeanor subject to:

- 2776 (i) a fine not less than \$299; and
2777 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2778 than 30 days.
- 2779 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
2780 been convicted of a violation of Subsection (2) and is subject to:
- 2781 (i) a fine not less than \$1,000; and
2782 (ii) incarceration, without suspension of sentence in any way, for a term of not less
2783 than 60 days.
- 2784 (4) It is an affirmative defense to a prosecution under this section that the distribution or
2785 exhibition of a film is exempt from the restrictions of this part described in Section
2786 76-5c-302.
- 2787 (5) It is not a defense to a prosecution under this section that the actor was a motion picture
2788 projectionist or was otherwise required by the actor's employment to commit the
2789 violation.
- 2790 (6) Each day's exhibition of a film exhibited in violation of this section is a separate offense.
2791 Section 65. Section **76-5c-401**, which is renumbered from Section 76-10-1230 is renumbered
2792 and amended to read:

2793 **Part 4. Requirements and Penalties for Content and Internet Providers**

2794 **[76-10-1230] 76-5c-401 . Definitions.**

2795 As used in [Sections 76-10-1231 and 76-10-1233] this part:

- 2796 (1) "Consumer" means an individual residing in this state who subscribes to a service
2797 provided by a service provider for personal or residential use.
- 2798 (2) "Content provider" means a person domiciled in Utah or that generates or hosts content
2799 in Utah, and that creates, collects, acquires, or organizes electronic data for electronic
2800 delivery to a consumer with the intent of making a profit.
- 2801 (3)(a) "Hosting company" means a person that provides services or facilities for storing
2802 or distributing content over the Internet without editorial or creative alteration of the
2803 content.
- 2804 (b) A hosting company may have policies concerning acceptable use without becoming
2805 a content provider under Subsection (2).
- 2806 (4) "Internet service provider" means a person engaged in the business of providing
2807 broadband Internet access service, with the intent of making a profit, to consumers in
2808 Utah.

2809 (5) "Properly rated" means content using a labeling system to label material harmful to
2810 minors provided by the content provider in a way that:
2811 (a) accurately appraises a consumer of the presence of material harmful to minors; and
2812 (b) allows the consumer the ability to control access to material harmful to minors based
2813 on the material's rating by use of reasonably priced commercially available software,
2814 including software in the public domain.

2815 (6) "Restrict" means to limit access to material harmful to minors by:

2816 (a) properly rating content; or

2817 (b) any other reasonable measures feasible under available technology.

2818 (7)(a) [~~Except as provided in Subsection (7)(b), "service provider"~~] "Service provider"
2819 means an Internet service provider.

2820 (b) "Service provider" does not include a person who does not terminate a service in this
2821 state, but merely transmits data through:

2822 (i) a wire;

2823 (ii) a cable; or

2824 (iii) an antenna.

2825 (c) "Service provider," notwithstanding Subsection (7)(b), includes a person who [~~meets~~
2826 ~~the requirements of Subsection (7)(a) and~~]leases or rents a wire or cable for the
2827 transmission of data.

2828 Section 66. Section **76-5c-402**, which is renumbered from Section 76-10-1231 is renumbered
2829 and amended to read:

2830 **~~[76-10-1231]~~ 76-5c-402 . Data service providers -- Internet content harmful to**
2831 **minors.**

2832 (1)(a) Upon request by a consumer, a service provider shall filter content to prevent the
2833 transmission of material harmful to minors to the consumer.

2834 (b) A service provider complies with Subsection (1)(a) if the service provider makes a
2835 good faith effort to apply a generally accepted and commercially reasonable method
2836 of filtering.

2837 (c) At the time of a consumer's subscription to a service provider's service, the service
2838 provider shall notify the consumer in a conspicuous manner that the consumer may
2839 request to have material harmful to minors blocked under Subsection (1)(a).

2840 (2) The Division of Consumer Protection within the Department of Commerce shall:

2841 (a) every other year request from each service provider information on how the service
2842 provider complies with Subsection (1)(a);

- 2843 (b) publish on the division's website a compilation of the information the division
2844 receives under Subsection (2)(a); and
- 2845 (c) update the compilation described in Subsection (2)(b) every other year.
- 2846 (3)(a) A service provider may comply with Subsection (1)(a) by providing in-network
2847 filtering to prevent the receipt of material harmful to minors, provided that the
2848 filtering does not affect or interfere with access to Internet content for consumers
2849 who do not request filtering under Subsection (1)(a).
- 2850 (b) A service provider may comply with Subsection (1)(a) by engaging a third party to
2851 provide or referring a consumer to a third party that provides a commercially
2852 reasonable method of filtering to block the receipt of material harmful to minors.
- 2853 (c) A service provider may charge a consumer a commercially reasonable fee for
2854 providing filtering under this Subsection (3).
- 2855 (4) If the attorney general determines that a service provider violates Subsection (1), the
2856 attorney general shall:
- 2857 (a) notify the service provider that the service provider is in violation of Subsection (1);
2858 and
- 2859 (b) notify the service provider that the service provider has 90 days to comply with the
2860 provision being violated or be subject to the civil penalties described in Subsection (5).
- 2861 (5)(a) A service provider that intentionally or knowingly violates Subsection (1)(a) is
2862 subject to a civil fine of \$2,500 for each separate violation of Subsection (1)(a), up to
2863 \$15,000 per day.
- 2864 (b) A service provider that intentionally or knowingly violates Subsection (1)(c) is
2865 subject to a civil fine up to \$10,000.
- 2866 (6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the
2867 attorney general [~~in a court of competent jurisdiction~~].

2868 Section 67. Section **76-5c-403**, which is renumbered from Section 76-10-1233 is renumbered
2869 and amended to read:

2870 **[76-10-1233] 76-5c-403 . Content providers -- Material harmful to minors.**

- 2871 (1) A content provider that is domiciled in Utah, or generates or hosts content in Utah, shall
2872 restrict access to material harmful to minors.
- 2873 (2) If the attorney general determines that a content provider violates Subsection (1), the
2874 attorney general shall:
- 2875 (a) notify the content provider that the content provider is in violation of Subsection (1);
2876 and

2877 (b) notify the content provider that the content provider has 30 days to comply with
 2878 Subsection (1) or be subject to the civil penalties described in Subsection (3).

2879 (3)(a) If a content provider intentionally or knowingly violates this section more than 30
 2880 days after receiving the notice provided under Subsection (2), the content provider is
 2881 subject to a civil fine of \$2,500 for each separate violation of Subsection (1), up to
 2882 \$10,000 per day.

2883 (b) A proceeding to impose the civil fine under this section may be brought only by the [
 2884 state]attorney general[~~and shall be brought in a court of competent jurisdiction~~].

2885 (4) The Division of Consumer Protection shall make rules in accordance with Title 63G,
 2886 Chapter 3, Utah Administrative Rulemaking Act, to establish acceptable rating methods
 2887 to be implemented by a content provider under Subsection (1).

2888 Section 68. Section **76-5d-101**, which is renumbered from Section 76-10-1301 is renumbered
 2889 and amended to read:

2890 CHAPTER 5d. PROSTITUTION

2891 Part 1. General Provisions

2892 ~~[76-10-1301]~~ **76-5d-101 . Definitions.**

2893 As used in this [~~part~~] chapter:

2894 (1) "Child" is an individual younger than 18 years old.

2895 (2) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV)
 2896 infection determined by current medical standards and detected by any of the following:

2897 (a) presence of antibodies to HIV, verified by a positive confirmatory test, such as
 2898 Western blot with an interpretation based on criteria currently recommended by the
 2899 Association of State and Territorial Public Health Laboratory Directors or another
 2900 confirmatory test approved by the Utah State Health Laboratory;

2901 (b) presence of HIV antigen;

2902 (c) isolation of HIV; or

2903 (d) demonstration of HIV proviral DNA.

2904 (3) "HIV positive individual" means an individual who has an HIV infection.

2905 (4) "Local law enforcement agency" means the agency responsible for investigation of the
 2906 violations of Sections 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, and
 2907 76-5d-210, the filing of charges which may lead to conviction, and the conducting of or
 2908 obtaining the results of tests for HIV infection.

2909 [~~(2) "Place of prostitution" means a place or business where prostitution or promotion of~~

2910 prostitution is arranged, regularly carried on, or attempted by one or more individuals
2911 under the control, management, or supervision of another.]

2912 (5) "Positive" means an indication of the HIV infection.

2913 [(3) "Prostitute" or "prostituted individual" means an individual engaged in an activity
2914 described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f).]

2915 [(4)] (6) "Public place" means a place to which the public or any substantial group of the
2916 public has access.

2917 [(5)] (7) "Sexual activity" means, regardless of the gender of either participant:

2918 (a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of
2919 one individual and the mouth or anus of another individual; or

2920 (b) the touching of the genitals, female breast, or anus of one individual with any other
2921 body part of another individual with the intent to sexually arouse or gratify either
2922 individual.

2923 (8) "Test" means a test for HIV infection in accordance with standards recommended by the
2924 Department of Health.

2925 Section 69. Section **76-5d-102**, which is renumbered from Section 76-10-1307 is renumbered
2926 and amended to read:

2927 **[76-10-1307]76-5d-102 . Local ordinance consistent with code provisions.**

2928 An ordinance adopted by a local authority governing prostitution or aiding
2929 prostitution [shall] that address the matters covered by this chapter are required to be
2930 consistent with the provisions of this [part] chapter which govern [those matters]
2931 prostitution or aiding prostitution.

2932 Section 70. Section **76-5d-103**, which is renumbered from Section 76-10-1311 is renumbered
2933 and amended to read:

2934 **[76-10-1311]76-5d-103 . Mandatory testing -- Retention of offender medical file**
2935 **-- Civil liability.**

2936 (1) [A person] An individual who has entered a plea of guilty, a plea of no contest, a plea of
2937 guilty with a mental condition, or been found guilty for violation of Section [76-10-1302,
2938 76-10-1303, or 76-10-1313 shall be] 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205,
2939 76-5d-209, or 76-5d-210 is required to submit to a mandatory test conducted before
2940 sentencing to determine if the [offender] individual is an HIV positive individual.[-The
2941 mandatory test shall be required and conducted prior to sentencing.]

2942 (2) If the mandatory test described in Subsection (1) has not been conducted [prior to] before
2943 sentencing, and the convicted [offender] actor is already confined in a county jail or state

- 2944 prison, ~~[such person shall]~~ the individual is required to be tested while in confinement.
- 2945 (3) ~~[The]~~ For an individual described in Subsection (1) who is confined in a county jail the
2946 local law enforcement agency shall cause the blood specimen of the offender ~~[as defined~~
2947 ~~in Subsection (1) confined in county jail]~~ to be taken and tested.
- 2948 (4) ~~[The]~~ For an individual described in Subsection (1) who is confined in a state prison the
2949 Department of Corrections shall cause the blood specimen of the offender ~~[defined in~~
2950 ~~Subsection (1) confined in any state prison]~~ to be taken and tested.
- 2951 (5) The local law enforcement agency shall collect and retain in the ~~[offender's]~~ individual's
2952 medical file the following data:
- 2953 (a) the HIV infection test results;
- 2954 (b) a copy of the written notice as provided in Section 76-10-1312;
- 2955 (c) photographic identification; and
- 2956 (d) fingerprint identification.
- 2957 (6) The local law enforcement agency shall classify the medical file as a private record
2958 pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section
2959 63G-2-304.
- 2960 (7)(a) ~~[The person tested shall be]~~ An individual required to be tested under this
2961 section is responsible for the costs of testing, unless the ~~[person]~~ individual is indigent.
2962]
- 2963 (b) ~~[The costs will then]~~ If an individual is indigent the costs for the testing will be paid
2964 by the local law enforcement agency or the Department of Corrections from the
2965 General Fund.
- 2966 (8)(a) The laboratory performing testing shall report test results to only designated
2967 officials in the Department of Corrections, the Department of Health and Human
2968 Services, and the local law enforcement agency submitting the blood specimen.
- 2969 (b) Each department or agency shall designate those officials by written policy.
- 2970 (c) Designated officials may release information identifying an ~~[offender]~~ individual
2971 under Section ~~[76-10-1302, 76-10-1303, or 76-10-1313]~~ 76-5d-202, 76-5d-203,
2972 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who has tested HIV positive as
2973 provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to
2974 Section ~~[76-10-1309]~~ 76-5d-211.
- 2975 (9)(a) An employee of the local law enforcement agency, the Department of
2976 Corrections, or the Department of Health and Human Services who discloses the HIV
2977 test results under this section is not civilly liable except when disclosure constitutes

2978 fraud or willful misconduct ~~[as provided in]~~ under Section 63G-7-202.

2979 (b) An employee of the local law enforcement agency, the Department of Corrections, or
 2980 the Department of Health and Human Services who discloses the HIV test results
 2981 under this section is not civilly or criminally liable, except when disclosure
 2982 constitutes a knowing violation of Section 63G-2-801.

2983 (10) When ~~[the]~~ a medical file is released as provided in Section 63G-2-803, the local law
 2984 enforcement agency, the Department of Corrections, or the Department of Health and
 2985 Human Services or ~~[its officers or employees]~~ an officer or employee of the local law
 2986 enforcement agency, the Department of Corrections, or the Department of Health and
 2987 Human Services are not liable for damages for release of the medical file.

2988 Section 71. Section **76-5d-104**, which is renumbered from Section 76-10-1312 is renumbered
 2989 and amended to read:

2990 **~~[76-10-1312]~~ 76-5d-104 . Notice to a convicted individual of HIV positive test**
 2991 **results.**

2992 (1) ~~[A person]~~ An individual convicted under Section ~~[76-10-1302, 76-10-1303, or~~
 2993 ~~76-10-1313]~~ 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who
 2994 has tested positive for the HIV infection shall be notified of the test results in person by:

- 2995 (a) the local law enforcement agency;
 2996 (b) the Department of Corrections, for offenders confined in ~~[any]~~ a state prison;
 2997 (c) the ~~[state-]~~Department of Health and Human Services; or
 2998 (d) an authorized representative of ~~[any of the agencies]~~ an agency listed in ~~[this~~
 2999 ~~Subsection (1)]~~ Subsection (1)(a) through (c).

3000 (2) The notice ~~[under]~~ described in Subsection (1) shall contain the signature of the HIV
 3001 positive ~~[person]~~ individual, indicating the ~~[person's]~~ individual's receipt of the notice, the
 3002 name and signature of the ~~[person]~~ individual providing the notice, and:

- 3003 (a) the date of the test;
 3004 (b) the positive test results;
 3005 (c) the name of the HIV positive individual; and
 3006 (d) the following language:

3007 ~~["A person]~~ "An individual who has been convicted of prostitution under Section [
 3008 ~~76-10-1302]~~ 76-5d-202, patronizing a [prostitute] prostituted individual under Section [
 3009 ~~76-10-1303]~~ 76-5d-203, patronizing a child involved in prostitution under Section 76-5d-204,
 3010 entering or remaining in a place of prostitution under Section 76-5d-205, [or-]sexual
 3011 solicitation under Section [76-10-1313] 76-5d-209, or sexual solicitation of a child under

3012 Section 76-5d-210 after being tested and diagnosed as an HIV positive individual and either
 3013 had actual knowledge that the [person] individual is an HIV positive individual or the [person]
 3014 individual has previously been convicted of any of the criminal offenses listed above is guilty
 3015 of a third degree felony under Section [~~76-10-1309~~] 76-5d-211."

3016 (3) Failure to provide [~~this notice~~] the notice described in Subsection (1), or to provide the
 3017 notice in the manner or form prescribed under this section, does not:

3018 (a) [-]create any civil liability[~~and does not~~] ; or

3019 (b) [-]create a defense to any prosecution under this [~~part~~] chapter.

3020 (4) Upon conviction under Section [~~76-10-1309~~] 76-5d-211, and as a condition of probation,
 3021 the [offender] actor shall receive treatment and counseling for HIV infection and drug
 3022 abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental
 3023 Health.

3024 Section 72. Section **76-5d-105**, which is renumbered from Section 76-10-1314 is renumbered
 3025 and amended to read:

3026 **[~~76-10-1314~~]-76-5d-105 . Examination of testing procedures and results in legal**
 3027 **proceedings.**

3028 (1) Employees of [the] a laboratory who conduct laboratory analysis of blood samples for
 3029 presence of antibody to HIV provided pursuant to a request by a law enforcement
 3030 agency or the Department of Corrections under Section [~~76-10-1311~~] 76-5d-103, may be
 3031 examined in a legal proceeding of any kind or character as to:

3032 (a) the nature of the testing;

3033 (b) the validity of the testing;

3034 (c) the results of the test;

3035 (d) the HIV positivity or negativity of the [person] individual tested;

3036 (e) the evidentiary chain of custody; and

3037 (f) other factors relevant to the prosecution, subject to the court's ruling.

3038 (2) This section applies only to the criminal investigation and prosecution under Section [
 3039 ~~76-10-1309~~] ~~##-##-###~~ which permits enhanced penalties upon a subsequent conviction
 3040 for:

3041 (a) prostitution[;] as described in Section [~~76-10-1302~~] 76-5d-202;

3042 (b) patronizing a [~~prostitute~~;] prostituted individual as described in Section [~~76-10-1303~~]
 3043 76-5d-203;~~[or]~~

3044 (c) patronizing a child involved in prostitution as described in Section 76-5d-204;

3045 (d) entering or remaining in a place of prostitution as described in Section 76-5d-205;

3046 ~~(e)~~ (e) sexual solicitation[,] as described in Section ~~[76-10-1313]~~ 76-5d-209; or
3047 (f) sexual solicitation of a child as described in Section 76-5d-210.

3048 Section 73. Section **76-5d-106**, which is renumbered from Section 76-10-1315 is renumbered
3049 and amended to read:

3050 ~~[76-10-1315]~~ **76-5d-106 . Safe harbor for children as victims in commercial sex or**
3051 **sexual solicitation.**

3052 (1) As used in this section:

3053 (a) "Child engaged in commercial sex" means a child who:

3054 (i) engages, offers, or agrees to engage in any sexual activity with another individual
3055 for a fee, or the functional equivalent of a fee;

3056 (ii) takes steps in arranging a meeting through any form of advertising, agreeing to
3057 meet, and meeting at an arranged place for the purpose of sexual activity in
3058 exchange for a fee or the functional equivalent of a fee; or

3059 (iii) loiters in or within view of any public place for the purpose of being hired to
3060 engage in sexual activity.

3061 (b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit
3062 or engage in any sexual activity with another person for a fee, or the functional
3063 equivalent of a fee, under Subsection ~~[76-10-1313(1)(a)]~~ 76-5d-209(2)(a), (c), (d), or
3064 (f).

3065 (c) "Division" means the Division of Child and Family Services created in Section
3066 80-2-201.

3067 (d) "Juvenile receiving center" means the same as that term is defined in Section
3068 80-1-102.

3069 (2) Upon encountering a child engaged in commercial sex or a child engaged in sexual
3070 solicitation, a law enforcement officer shall:

3071 (a) conduct an investigation regarding possible human trafficking of the child pursuant
3072 to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;

3073 (b) refer the child to the division;

3074 (c) bring the child to a juvenile receiving center, if available; and

3075 (d) contact the child's parent or guardian, if practicable.

3076 (3) When law enforcement refers a child to the division under Subsection (2)(b) the
3077 division shall provide services to the child under Title 80, Chapter 2, Child Welfare
3078 Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

3079 (4) A child may not be subjected to delinquency proceedings for prostitution ~~[under]~~ as

3080 described in Section [76-10-1302] 76-5d-202, [or]sexual solicitation [under] as described
 3081 in Section [76-10-1313] 76-5d-209, or sexual solicitation of a child as described in
 3082 Section 76-5d-210.

3083 Section 74. Section **76-5d-201** is enacted to read:

3084

Part 2. General Offenses

76-5d-201 . Definitions.

3085 As used in this part:

3087 (1) "Place of prostitution" means a place or business where prostitution or promotion of
 3088 prostitution is arranged, regularly carried on, or attempted by one or more individuals
 3089 under the control, management, or supervision of another individual.

3090 (2) "Prostituted individual" means an individual engaged in a prohibited activity described
 3091 in Section 76-5d-202 or Subsection 76-76-5d-209(2)(a), (c), (d), or (f).

3092 Section 75. Section **76-5d-202**, which is renumbered from Section 76-10-1302 is renumbered
 3093 and amended to read:

[76-10-1302]76-5d-202 . Prostitution.

3095 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3096 ~~[(1)]~~ (2) An actor[~~-, except for a child under Section 76-10-1315, is guilty of~~] commits
 3097 prostitution if the actor engages in sexual activity with another individual for a fee, or
 3098 the functional equivalent of a fee.

3099 ~~[(2)]~~ (3)(a) Except as provided in Subsection ~~[(2)](b) and Section 76-10-1309~~ (3)(b), a
 3100 violation of Subsection ~~[(1)]~~ (2) is a class B misdemeanor.

3101 (b) ~~[Except as provided in Section 76-10-1309, an actor who is convicted a second time,~~
 3102 ~~and on all subsequent convictions, of a subsequent offense of prostitution under this~~
 3103 ~~section or] A violation of Subsection (2) is a class A misdemeanor if the actor has~~
 3104 ~~previously been convicted of:~~

3105 ~~(i) a violation of Subsection (2); or~~

3106 ~~(ii) ~~[-under]a local ordinance adopted [under] in accordance with Section [76-10-1307,~~~~
 3107 ~~is guilty of a class A misdemeanor] 76-5d-102 addressing the same or similar type~~
 3108 ~~of violation to the violation described in Subsection (2).~~

3109 ~~[(3)]~~ (4) A prosecutor may not prosecute an actor for a violation of Subsection ~~[(1)]~~ (2) if the
 3110 actor engages in a violation of Subsection ~~[(1)]~~ (2) at or near the time the actor witnesses
 3111 or is a victim of any of the following offenses, or an attempt to commit any of the
 3112 following offenses, and the actor reports the offense or attempt to law enforcement in

- 3113 good faith:
- 3114 (a) assault[;] as described in Section 76-5-102;
- 3115 (b) aggravated assault[;] as described in Section 76-5-103;
- 3116 (c) mayhem[;] as described in Section 76-5-105;
- 3117 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
- 3118 homicide, or homicide by assault [~~under~~] as described in Chapter 5, Part 2, Criminal
- 3119 Homicide;
- 3120 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
- 3121 aggravated human trafficking, human smuggling or aggravated human smuggling, or
- 3122 human trafficking of a child [~~under~~] as described in Chapter 5, Part 3, Kidnapping,
- 3123 Trafficking, and Smuggling;
- 3124 (f) rape[;] as described in Section 76-5-402;
- 3125 (g) rape of a child[;] as described in Section 76-5-402.1;
- 3126 (h) object rape[;] as described in Section 76-5-402.2;
- 3127 (i) object rape of a child[;] as described in Section 76-5-402.3;
- 3128 (j) forcible sodomy[;] as described in Section 76-5-403;
- 3129 (k) sodomy on a child[;] as described in Section 76-5-403.1;
- 3130 (l) forcible sexual abuse[;] as described in Section 76-5-404;
- 3131 (m) sexual abuse of a child[;] as described in Section 76-5-404.1, or aggravated sexual
- 3132 abuse of a child, Section 76-5-404.3;
- 3133 (n) aggravated sexual assault[;] as described in Section 76-5-405;
- 3134 (o) sexual exploitation of a minor[;] as described in Section 76-5b-201;
- 3135 (p) aggravated sexual exploitation of a minor[;] as described in Section 76-5b-201.1;
- 3136 (q) sexual exploitation of a vulnerable adult[;] as described in Section 76-5b-202;
- 3137 (r) [~~aggravated burglary or~~] burglary of a dwelling [~~under Chapter 6, Part 2, Burglary~~
- 3138 ~~and Criminal Trespass~~] as described in Subsection 76-6-202(3)(b);
- 3139 (s) aggravated burglary as described in Section 76-6-203;
- 3140 [~~(s)~~] (t) [~~aggravated robbery or~~] robbery [~~under Chapter 6, Part 3, Robbery~~] as described
- 3141 in Section 76-6-301;
- 3142 (u) aggravated robbery as described in Section 76-6-302; or
- 3143 [~~(t)~~] (v) theft by extortion [~~under~~] as described in Section 76-6-406 under the
- 3144 circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).
- 3145 (5) This section does not apply to a child under Section 76-5d-106.
- 3146 (6) A violation under this section that is a class A misdemeanor may be prosecuted by an

3147 attorney of a city or a town as well as by prosecutors authorized in the code to prosecute
3148 a violation under this section.

3149 Section 76. Section **76-5d-203**, which is renumbered from Section 76-10-1303 is renumbered
3150 and amended to read:

3151 **[76-10-1303] 76-5d-203 . Patronizing a prostituted individual.**

3152 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3153 ~~[(1)]~~ (2) An actor [is guilty of] commits patronizing a [prostitute if the actor] prostituted
3154 individual if:

3155 (a) the actor pays[or] , offers to pay, or agrees to pay a [prostituted individual] prostituted
3156 individual, or an individual the actor believes to be a [prostituted individual]
3157 prostituted individual, a fee, or the functional equivalent of a fee[-] ; and

3158 (b) the payment, offer of payment, or agreement for payment described in Subsection
3159 (2)(a) is for the purpose of engaging in an act of sexual activity[; or] .

3160 ~~[(b) enters or remains in a place of prostitution for the purpose of engaging in sexual~~
3161 ~~activity.]~~

3162 ~~[(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection~~
3163 ~~(3), (4), or (5) or Section 76-10-1309.]~~

3164 ~~[(3) A violation of this section that is preceded by a conviction under this section or a~~
3165 ~~conviction under a local ordinance adopted under Section 76-10-1307 is a class A~~
3166 ~~misdemeanor.]~~

3167 ~~[(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307~~
3168 ~~is a third-degree felony.]~~

3169 ~~[(5)(a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under~~
3170 ~~Subsection (1)(a) involves a child as the other individual, a violation of Subsection~~
3171 ~~(1)(a) is a second-degree felony.]~~

3172 ~~[(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under~~
3173 ~~Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or~~
3174 ~~older at the time of the offense or was unaware of the individual's true age.]~~

3175 ~~[(c) An actor's belief that the individual was under 18 years old at the time of the offense,~~
3176 ~~even if the individual was 18 years old or older, is a violation of Subsection (5)(a).]~~

3177 ~~[(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a~~
3178 ~~greater penalty under another provision of state law than is provided under Subsection~~
3179 ~~(5)(a), this Subsection (5) does not prohibit prosecution and sentencing for the more~~
3180 ~~serious offense.]~~

- 3181 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
3182 misdemeanor.
- 3183 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
3184 convicted two or more times of:
- 3185 (i) a violation of Subsection (2); or
3186 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
3187 same or similar type of violation to the violation described in Subsection (2).
- 3188 ~~[(6)]~~ (4) Upon a conviction for a violation of this section, the court shall order:
- 3189 (a) the maximum fine amount and may not waive or suspend the fine; and
- 3190 (b) the ~~[defendant]~~ actor to pay for and complete a court-approved educational program
3191 about the negative effects on an individual involved with prostitution or human
3192 trafficking.
- 3193 Section 77. Section **76-5d-204** is enacted to read:
- 3194 **76-5d-204 . Patronizing a child involved in prostitution.**
- 3195 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- 3196 (2) An actor commits patronizing a child involved in prostitution if:
- 3197 (a) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an
3198 individual the actor believes to be a prostituted individual, a fee, or the functional
3199 equivalent of a fee;
- 3200 (b) the payment, offer of payment, or agreement for payment described in Subsection
3201 (2)(a) is for the purpose of engaging in an act of sexual activity; and
- 3202 (c) the prostituted individual, or the individual the actor believes to be a prostituted
3203 individual, described in Subsection (2)(a) is:
- 3204 (i) a child; or
3205 (ii) believed by the actor to be a child.
- 3206 (3) A violation of Subsection (2) is a second degree felony.
- 3207 (4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this
3208 section that the actor mistakenly believed the individual described in Subsection (2) to
3209 be 18 years old or older at the time of the offense or was unaware of the individual's true
3210 age.
- 3211 (5) If the act committed under Subsection (2) amounts to an offense that is subject to a
3212 greater penalty under another provision of law this section does not prohibit prosecution
3213 and sentencing for the more serious offense.
- 3214 (6) Upon a conviction for a violation of this section, the court shall order:

- 3215 (a) the maximum fine amount and may not waive or suspend the fine; and
 3216 (b) the actor to pay for and complete a court-approved educational program about the
 3217 negative effects on an individual involved with prostitution or human trafficking.

3218 Section 78. Section **76-5d-205** is enacted to read:

3219 **76-5d-205 . Entering or remaining in a place of prostitution.**

3220 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3221 (2) An actor commits entering or remaining in a place of prostitution if the actor enters or
 3222 remains in a place of prostitution for the purpose of engaging in sexual activity.

3223 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
 3224 misdemeanor.

3225 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
 3226 convicted two or more times of:

3227 (i) a violation of Subsection (2); or

3228 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
 3229 same or similar type of violation to the violation described in Subsection (2).

3230 (4) Upon a conviction for a violation of this section, the court shall order:

3231 (a) the maximum fine amount and may not waive or suspend the fine; and

3232 (b) the actor to pay for and complete a court-approved educational program about the
 3233 negative effects on an individual involved with prostitution or human trafficking.

3234 Section 79. Section **76-5d-206**, which is renumbered from Section 76-10-1304 is renumbered
 3235 and amended to read:

3236 **[76-10-1304]76-5d-206 . Aiding prostitution.**

3237 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3238 [(1)] (2) An [individual is guilty of] actor commits aiding prostitution if the [individual] actor:

3239 (a)(i) solicits an individual to patronize a [prostitute] prostituted individual, or to

3240 patronize an individual the actor believes to be a [prostitute] prostituted individual;

3241 (ii) procures or attempts to procure a [prostitute] prostituted individual, or an

3242 individual the actor believes to be a [prostitute] prostituted individual, for a patron;

3243 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
 3244 association with another individual, to be used for prostitution or the promotion of
 3245 prostitution; or

3246 (iv) provides [any] a service or commits [any] an act that enables another individual to
 3247 commit a violation of [~~this Subsection (1)(a)] this Subsection (2) or facilitates
 3248 another individual's ability to commit [any] a violation of [~~this Subsection (1)(a)]~~~~

3249 this Subsection (2); or

3250 (b) solicits, receives, or agrees to receive ~~[any]~~ a benefit for committing any of the acts
3251 prohibited by Subsection ~~[(1)(a)]~~ (2)(a).

3252 ~~[(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~

3253 ~~[(3) An individual who is convicted a second time, and on all subsequent convictions,
3254 under this section or under a local ordinance adopted in compliance with Section
3255 76-10-1307 is guilty of a third degree felony.]~~

3256 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
3257 misdemeanor.

3258 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
3259 convicted of:

3260 (i) a violation of Subsection (2); or

3261 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
3262 same or similar type of violation to the violation described in Subsection (2).

3263 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine
3264 amount and may not waive or suspend the fine.

3265 (5) A violation under this section that is a class A misdemeanor may be prosecuted by an
3266 attorney of a city or a town as well as by prosecutors authorized in the code to prosecute
3267 a violation under this section.

3268 Section 80. Section **76-5d-207**, which is renumbered from Section 76-10-1305 is renumbered
3269 and amended to read:

3270 **[76-10-1305] 76-5d-207 . Exploitation of prostitution.**

3271 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3272 ~~[(1)]~~ (2) An [individual is guilty of exploiting-] actor commits exploitation of prostitution if
3273 the [individual] actor:

3274 (a) procures an individual for a place of prostitution;

3275 (b) encourages, induces, or otherwise purposely causes another individual to become or
3276 remain a [prostitute] prostituted individual;

3277 (c) transports an individual into or within this state with [a] the purpose to promote [that]
3278 the individual's [engaging] engagement in prostitution;

3279 (d) [-or procuring or paying for] procures or pays for an individual's transportation with [
3280 that] the purpose of promoting the individual's engagement in prostitution;

3281 ~~[(d)]~~ (e) not being a child or legal dependent of a [prostitute] prostituted individual, shares
3282 the proceeds of prostitution with a [prostitute] prostituted individual, or an individual

3283 the actor believes to be a [~~prostitute~~] prostituted individual, pursuant to [~~their~~] the
 3284 prostituted individual's understanding that the actor is to share [~~therein~~] in the
 3285 proceeds of the prostitution; or

3286 [(e)] (f) owns, controls, manages, supervises, or otherwise keeps, alone or in association
 3287 with another individual, a place of prostitution or a business where prostitution
 3288 occurs or is arranged, encouraged, supported, or promoted.

3289 [(2)] (3) [~~Exploiting prostitution is a felony of the~~] A violation of Subsection (2) is a third
 3290 degree felony.

3291 [(3)] (4) Upon a conviction for a violation of this section, the court shall order the maximum
 3292 fine amount and may not waive or suspend the fine.

3293 Section 81. Section **76-5d-208**, which is renumbered from Section 76-10-1306 is renumbered
 3294 and amended to read:

3295 **[76-10-1306]76-5d-208 . Aggravated exploitation of prostitution.**

3296 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3297 [(1)] (2) [~~A person is guilty of-~~] An actor commits aggravated exploitation of prostitution if:

3298 (a) in committing an act of [~~exploiting~~] exploitation of prostitution[~~, as defined in~~] as
 3299 described in Section [76-10-1305] 76-5d-207, the [~~person~~] actor uses any force, threat,
 3300 or fear against any [~~person~~] individual;

3301 (b) the [~~person~~] actor procured, transported, or persuaded or with whom the [~~person~~] actor
 3302 shares the proceeds of prostitution is a child or is the spouse of the actor; or

3303 (c) in the course of committing an act of exploitation of prostitution[~~, a violation of~~
 3304 Section 76-10-1305] as described in Section 76-5d-207, the [~~person~~] actor commits
 3305 human trafficking or human smuggling[~~, a~~] in violation of Section 76-5-308,
 3306 76-5-308.1, 76-5-308.3, or 76-5-308.5.

3307 [(2)] (3)(a) [~~Aggravated exploitation of prostitution-~~] Except as provided in Subsection
 3308 (3)(b), a violation of Subsection (2) is a second degree felony[~~, except under~~
 3309 Subsection (3)].

3310 [(3)] (b) [~~Aggravated exploitation of prostitution involving a child-~~] A violation of
 3311 Subsection (2) is a first degree felony if the violation involves a child.

3312 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine
 3313 amount and may not waive or suspend the fine.

3314 Section 82. Section **76-5d-209**, which is renumbered from Section 76-10-1313 is renumbered
 3315 and amended to read:

3316 **[76-10-1313]76-5d-209 . Sexual solicitation.**

- 3317 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
3318 [~~(1)~~] (2) An ~~[individual except for a child under Section 76-10-1315 is guilty of]~~ actor
3319 commits sexual solicitation if the [individual] actor:
- 3320 (a) offers or agrees to commit any sexual activity with another individual for a fee, or
3321 the functional equivalent of a fee;
 - 3322 (b) pays, ~~[or]offers to pay,~~ or agrees to pay a fee, or the functional equivalent of a fee, to
3323 another individual to commit any sexual activity;
 - 3324 (c)(i) takes steps to arrange a meeting with another individual through any form of
3325 advertising or agreement to meet~~[, and]~~ ;
3326 (ii) ~~[-]~~ meets the individual at an arranged place; and
3327 (iii) ~~[-]~~ arranged and met the individual for the purpose of being hired to engage in
3328 sexual activity in exchange for a fee, or the functional equivalent of a fee;
 - 3329 (d) loiters in, or within view of, a public place for the purpose of being hired to engage
3330 in sexual activity in exchange for a fee, or the functional equivalent of a fee;
 - 3331 (e) with intent to pay another individual to commit any sexual activity for a fee, or the
3332 functional equivalent of a fee, requests or directs the ~~[other]~~ individual to engage in
3333 any of the following acts:
 - 3334 (i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the
3335 female breast below the top of the areola;
 - 3336 (ii) masturbation;
 - 3337 (iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the
3338 female breast; or
 - 3339 (iv) any act of lewdness; or
 - 3340 (f) with intent to engage in sexual activity for a fee, or the functional equivalent of a fee,
3341 engages in, or offers or agrees to engage in, an act described in Subsection ~~[(1)(e)(i)]~~
3342 ~~(2)(e)(i)~~ through (iv).
- 3343 [~~(2) An intent to engage in sexual activity for a fee may be inferred from an individual's~~
3344 ~~engaging in, offering or agreeing to engage in, or requesting or directing another to~~
3345 ~~engage in any of the acts described in Subsection (1) (e) or (f) under the totality of the~~
3346 ~~existing circumstances.]~~
- 3347 (3)(a) ~~[Except as provided in Section 76-10-1309 and Subsections (4) and (5), a]~~ A
3348 violation of Subsection ~~[(1)(a)]~~ (2)(a), (c), (d), or (f) or under a local ordinance
3349 adopted in compliance with Section ~~[76-10-1307]~~ 76-5d-102 is:
3350 ~~[(a)]~~ (i) a class B misdemeanor on a first or second violation; ~~[and]~~ or

- 3351 ~~[(b)]~~ (ii) a class A misdemeanor on a third or subsequent violation.
- 3352 ~~[(4)]~~ (b) ~~[Except as provided in Section 76-10-1309 and Subsections (5) and (8), a]~~ A
- 3353 violation of Subsection ~~[(1)(b)]~~ (2)(b) or (e) or a local ordinance adopted under
- 3354 Section ~~[76-10-1307]~~ 76-5d-102 is:
- 3355 ~~[(a)]~~ (i) a class A misdemeanor on the first or second violation; ~~[and]~~ or
- 3356 ~~[(b)]~~ (ii) a third degree felony on a third or subsequent violation.
- 3357 ~~[(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and~~
- 3358 ~~the individual solicited is a child, the offense is a second degree felony if the solicitation~~
- 3359 ~~does not amount to a violation of:]~~
- 3360 ~~[(a) Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3,~~
- 3361 ~~human smuggling; or]~~
- 3362 ~~[(b) Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated~~
- 3363 ~~human smuggling.]~~
- 3364 (4) An intent to engage in sexual activity for a fee may be inferred from an actor engaging
- 3365 in, offering or agreeing to engage in, or requesting or directing another to engage in any
- 3366 of the acts described in Subsection (2)(e) or (f) under the totality of the existing
- 3367 circumstances.
- 3368 ~~[(6)]~~ (5)(a) Upon encountering a child engaged in commercial sex or a child engaged in
- 3369 sexual solicitation, a law enforcement officer shall follow the procedure described in
- 3370 Subsection ~~[76-10-1315(2)]~~ 76-5d-106(2).
- 3371 (b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be
- 3372 referred to the Division of Child and Family Services for services and may not be
- 3373 subjected to delinquency proceedings.
- 3374 ~~[(7)]~~ (6) A prosecutor may not prosecute an ~~[individual]~~ actor for a violation of Subsection [
- 3375 ~~(1)]~~ (2) if the ~~[individual]~~ actor engages in a violation of Subsection ~~[(1)]~~ (2) at or near the
- 3376 time the ~~[individual]~~ actor witnesses or is a victim of any of the offenses, or an attempt to
- 3377 commit any of the offenses, described in Subsection ~~[76-10-1302(3)]~~ 76-5d-202(4), and
- 3378 the individual reports the offense or attempt to law enforcement in good faith.
- 3379 ~~[(8)]~~ (7)(a) As part of a sentence imposed under Subsection ~~[(3)]~~ (3)(a), the court may
- 3380 lower, waive, or suspend a fine if the ~~[defendant]~~ actor completes a court-approved
- 3381 program that provides information or services intended to help an individual no
- 3382 longer engage in prostitution.
- 3383 (b) As part of a sentence imposed under Subsection ~~[(4)]~~ (3)(b), the court shall order the [
- 3384 ~~defendant]~~ actor to pay for and complete a court-approved educational program about

3385 the negative effects on an individual involved with prostitution or human trafficking.

3386 (8) This section does not apply to a child under Section 76-5d-106.

3387 Section 83. Section **76-5d-210** is enacted to read:

3388 **76-5d-210 . Sexual solicitation of a child.**

3389 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

3390 (2) Under circumstances not amounting to an offense described in Subsection (4), an actor
3391 commits sexual solicitation of a child if the actor:

3392 (a) offers or agrees to commit any sexual activity with a child for a fee, or the functional
3393 equivalent of a fee;

3394 (b) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a
3395 child to commit any sexual activity;

3396 (c)(i) takes steps to arrange a meeting with a child through any form of advertising
3397 or agreement to meet;

3398 (ii) meets the child at an arranged place; and

3399 (iii) arranged and met the child for the purpose of being hired to engage in sexual
3400 activity in exchange for a fee, or the functional equivalent of a fee;

3401 (d) loiters in, or within view of, a public place for the purpose of being hired to engage
3402 in sexual activity with a child in exchange for a fee, or the functional equivalent of a
3403 fee;

3404 (e) with intent to pay a child to commit any sexual activity for a fee, or the functional
3405 equivalent of a fee, requests or directs the child to engage in any of the following acts:

3406 (i) exposure of the child's genitals, the buttocks, the anus, the pubic area, or the
3407 female breast below the top of the areola;

3408 (ii) masturbation;

3409 (iii) touching of the child's genitals, the buttocks, the anus, the pubic area, or the
3410 female breast; or

3411 (iv) any act of lewdness; or

3412 (f) with intent to engage in sexual activity with a child for a fee, or the functional
3413 equivalent of a fee, engages in, or offers or agrees to engage in, an act described in
3414 Subsection (2)(e)(i) through (iv).

3415 (3) A violation of Subsection (2) is a second degree felony.

3416 (4) The offenses referred to in Subsection (2) are:

3417 (a) human trafficking for labor as described in Section 76-5-308;

3418 (b) human trafficking for sexual exploitation as described in Section 76-5-308.1;

- 3419 (c) human smuggling as described in Section 76-5-308.3;
 3420 (d) human trafficking of a child as described in 76-5-308.5;
 3421 (e) aggravated human trafficking as described in Section 76-5-310; and
 3422 (f) aggravated human smuggling as described in Section 76-5-310.1.
- 3423 (5)(a) Upon encountering a child engaged in commercial sex or a child engaged in
 3424 sexual solicitation, a law enforcement officer shall follow the procedure described in
 3425 Subsection 76-5d-106(2).
- 3426 (b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be
 3427 referred to the Division of Child and Family Services for services and may not be
 3428 subjected to delinquency proceedings.
- 3429 (6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor
 3430 engages in a violation of Subsection (2) at or near the time the actor witnesses or is a
 3431 victim of any of the offenses, or an attempt to commit any of the offenses, described in
 3432 Subsection 76-5d-202(4), and the individual reports the offense or attempt to law
 3433 enforcement in good faith.

3434 (7) This section does not apply to a child under Section 76-5d-106.

3435 Section 84. Section **76-5d-211**, which is renumbered from Section 76-10-1309 is renumbered
 3436 and amended to read:

3437 **[76-10-1309] 76-5d-211 . Enhanced penalties for HIV positive actor.**

3438 [A person] An actor who is convicted of prostitution [under] as described in
 3439 Section [76-10-1302] 76-5d-202, patronizing a [prostitute under] a prostituted individual
 3440 as described in Section [76-10-1303] 76-5d-203, patronizing a child involved in
 3441 prostitution as described in Section 76-5d-204, entering or remaining in a place of
 3442 prostitution as described in Section 76-5d-205, or sexual solicitation [under] as described
 3443 in Section [76-10-1313] 76-5d-209 is guilty of a third degree felony if at the time of the
 3444 offense the [person] actor is an HIV positive individual, and the [person] actor:

- 3445 (1) has actual knowledge [of the fact] that the actor is an HIV positive individual; or
 3446 (2) has previously been convicted under Section [76-10-1302, 76-10-1303, or 76-10-1313]
 3447 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, or 76-5d-209.

3448 Section 85. Section **76-6-207**, which is renumbered from Section 76-10-2002 is renumbered
 3449 and amended to read:

3450 **[76-10-2002] 76-6-207 . Burglary of a research facility -- Penalties.**

3451 (1)(a) As used in this section:

- 3452 (i) "Building," in addition to its commonly-accepted meaning, means any watercraft,

- 3453 aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight
3454 accommodations of individuals or for carrying on business and includes:
3455 (A) each separately secured or occupied portion of the building or vehicle; and
3456 (B) each structure appurtenant or connected to the building or vehicle.
- 3457 (ii) "Enter" means:
3458 (A) an intrusion of any part of the body; or
3459 (B) the intrusion of any physical object, sound wave, light ray, electronic signal,
3460 or other means of intrusion under the control of the actor.
- 3461 (iii) "Research" means studious and serious inquiry, examination, investigation, or
3462 experimentation aimed at the discovery, examination, or accumulation of facts,
3463 data, devices, theories, technologies, or applications done for any public,
3464 governmental, proprietary, or teaching purpose.
- 3465 (iv) "Research facility" means a building, or separately secured yard, pad, pond,
3466 laboratory, pasture, pen, or corral which is not open to the public, the major use of
3467 which is to conduct research, to house research subjects, to store supplies,
3468 equipment, samples, specimens, records, data, prototypes, or other property used
3469 in or generated from research.
- 3470 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- 3471 ~~[(1)]~~ (2) [A person is guilty of-] An actor commits burglary of a research facility if [he] the
3472 actor enters or remains unlawfully in a research facility with the intent to:
3473 (a) obtain unauthorized control over any property, sample, specimen, record, data, test
3474 result, or proprietary information in the facility;
3475 (b) alter or eradicate any sample, specimen, record, data, test result, or proprietary
3476 information in the facility;
3477 (c) damage, deface, or destroy any property in the facility;
3478 (d) release from confinement or remove any animal or biological vector in the facility
3479 regardless of whether or not that animal or vector is dangerous;
3480 (e) commit an assault on [any person] an individual;
3481 (f) commit any other felony; or
3482 (g) interfere with the personnel or operations of a research facility through [any-]conduct
3483 that does not constitute an assault.
- 3484 ~~[(2) A person who violates Subsection (1)(g) is guilty of a class A misdemeanor. A person~~
3485 ~~who violates any other provision in this section is guilty of a felony of the second degree.]~~
- 3486 (3)(a) A violation of Subsection (2)(g) is a class A misdemeanor.

3487 (b) A violation of Subsection (2)(a), (b), (c), (d), (e), or (f) is a second degree felony.

3488 Section 86. Section **76-6-414** is amended to read:

3489 **76-6-414 . Theft resulting in economic interruption.**

3490 (1)(a) As used in this section:

3491 (i) "Business" means the same as that term is defined in Section 76-6-113.

3492 (ii) "Governmental entity" means the same as that term is defined in Section 76-6-113.

3493 (iii) "Economic interruption" means the same as that term is defined in Section
3494 76-6-113.

3495 (b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.

3496 (2) An actor commits theft resulting in economic interruption if:

3497 (a) the actor intentionally, knowingly, recklessly, or negligently obtains or exercises
3498 unauthorized control over a business's or governmental entity's property with the
3499 intent to deprive the business or governmental entity of the property; and

3500 (b) the actor's actions under Subsection (2)(a) cause an economic interruption for the
3501 business or governmental entity.

3502 [~~(3) A violation of Subsection (2) is a class A misdemeanor.~~]

3503 (3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a
3504 class A misdemeanor;

3505 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third
3506 degree felony if the actor has two prior convictions for a violation of Subsection (2)
3507 within five years before the day on which the actor committed the most recent
3508 violation of Subsection (2).

3509 (c) A violation of Subsection (2) is a second degree felony if the actor has at least three
3510 prior convictions for a violation of Subsection (2) within five years before the day on
3511 which the actor committed the most recent violation of Subsection (2).

3512 (4) It is not a defense under this section that the actor did not know that the victim is a
3513 business or governmental entity.

3514 [~~(5) If the trier of facts finds that the actor committed a violation of Subsection (2), the~~
3515 ~~actor is guilty of:]~~

3516 [(a) a third degree felony if the actor has two prior convictions for a violation of
3517 Subsection (2) within five years before the day on which the actor committed the most
3518 recent violation of Subsection (2); and]

3519 [(b) a second degree felony if the actor has at least three prior convictions for a violation of
3520 Subsection (2) within five years before the day on which the actor committed the most

3521 recent violation of Subsection (2).]

3522 [(6)] (5) A prior conviction used for a penalty enhancement under Subsection [(5)] (3)(b) or

3523 (c) is a conviction that is from a separate criminal episode than:

3524 (a) the most recent violation of Subsection (2); and

3525 (b) any other prior conviction that is used to enhance the penalty for the most recent
3526 violation of Subsection (2).

3527 [(7)] (6) The prosecuting attorney, or the grand jury if an indictment is returned, shall

3528 include notice in the information or indictment that the offense is subject to an

3529 enhancement under Subsection [(5)] (3)(b) or (c).

3530 Section 87. Section **76-6-525**, which is renumbered from Section 76-10-1801 is renumbered

3531 and amended to read:

3532 **[76-10-1801]76-6-525 . Communications fraud.**

3533 (1)(a) As used in this section, "sensitive personal identifying information" means
3534 information regarding an individual's:

3535 (i) social security number;

3536 (ii) driver license number or other government-issued identification number;

3537 (iii) financial account number or credit or debit card number;

3538 (iv) password or personal identification number or other identification required to
3539 gain access to a financial account or a secure website;

3540 (v) automated or electronic signature;

3541 (vi) unique biometric data; or

3542 (vii) any other information that can be used to gain access to an individual's financial
3543 accounts or to obtain goods or services.

3544 (b) Terms defined in Section 76-1-101.5 apply to this section.

3545 (2) [Any person who] An actor commits communications fraud if the actor has devised any
3546 scheme or artifice to defraud another or to obtain from another money, property, or
3547 anything of value by means of false or fraudulent pretenses, representations, promises,
3548 or material omissions, and who communicates directly or indirectly with any person by
3549 any means for the purpose of executing or concealing the scheme or artifice.

3550 (3) A violation of Subsection (2) is~~guilty of~~:

3551 (a) a class B misdemeanor when the value of the property, money, or thing obtained or
3552 sought to be obtained is less than \$500;

3553 (b) a class A misdemeanor when the value of the property, money, or thing obtained or
3554 sought to be obtained is or exceeds \$500 but is less than \$1,500;

- 3555 (c) a third degree felony when the value of the property, money, or thing obtained or
3556 sought to be obtained is or exceeds \$1,500 but is less than \$5,000;
- 3557 (d) a second degree felony when the value of the property, money, or thing obtained or
3558 sought to be obtained is or exceeds \$5,000; and
- 3559 (e) a second degree felony when the object or purpose of the scheme or artifice to
3560 defraud is the obtaining of sensitive personal identifying information, regardless of
3561 the value.
- 3562 ~~[(2)]~~ (4) The determination of the degree of ~~[any]~~ an offense under Subsection ~~[(1) shall be]~~
3563 (2) is measured by the total value of all property, money, or things obtained or sought to
3564 be obtained by the scheme or artifice described in Subsection ~~[(1)]~~ (2) except as provided
3565 in Subsection ~~[(1)(e)]~~ (3)(e).
- 3566 ~~[(3)]~~ (5)(a) Reliance on the part of any person is not a necessary element of the offense
3567 described in Subsection ~~[(1)]~~ (2).
- 3568 ~~[(4)]~~ (b) An intent on the part of the ~~[perpetrator]~~ actor of any offense described in
3569 Subsection ~~[(1)]~~ (2) to permanently deprive any person of property, money, or thing
3570 of value is not a necessary element of the offense.
- 3571 ~~[(5)]~~ (c) Each separate communication made for the purpose of executing or concealing a
3572 scheme or artifice described in Subsection ~~[(1)]~~ (2) is a separate act and offense of
3573 communication fraud.
- 3574 (6)(a) To communicate as described in Subsection ~~[(1)]~~ (2) means to:
- 3575 (i) bestow, convey, make known, recount, or impart;
- 3576 (ii) give by way of information;
- 3577 (iii) talk over; or
- 3578 (iv) transmit information.
- 3579 (b) Means of communication include use of the mail, telephone, telegraph, radio,
3580 television, newspaper, computer, and spoken and written communication.
- 3581 (7) ~~[A person]~~ An actor may not be convicted under this section unless the pretenses,
3582 representations, promises, or material omissions made or omitted were made or omitted
3583 intentionally, knowingly, or with a reckless disregard for the truth.
- 3584 ~~[(8) As used in this section, "sensitive personal identifying information" means~~
3585 information regarding an individual's:
- 3586 ~~[(a) Social Security number;]~~
- 3587 ~~[(b) driver's license number or other government issued identification number;]~~
- 3588 ~~[(c) financial account number or credit or debit card number;]~~

3589 ~~[(d) password or personal identification number or other identification required to gain~~
3590 ~~access to a financial account or a secure website;]~~

3591 ~~[(e) automated or electronic signature;]~~

3592 ~~[(f) unique biometric data; or]~~

3593 ~~[(g) any other information that can be used to gain access to an individual's financial~~
3594 ~~accounts or to obtain goods or services.]~~

3595 Section 88. Section **76-8-107** is amended to read:

3596 **76-8-107 . Alteration of proposed legislative bill or resolution.**

3598 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3599 (2) An actor commits alteration of proposed legislative bill or resolution if the actor
3600 fraudulently alters the draft of a bill or resolution that has been presented to either of the
3601 houses composing the Legislature to be passed or adopted, with intent to procure the
3602 proposed legislative bill or resolution being passed or adopted by either house, or
3603 certified by the presiding officer of either house in language different from that intended
3604 by either house.

3605 (3) A violation of Subsection (2) is a third degree felony.

3606 Section 89. Section **76-8-311.3** is amended to read:

3607 **76-8-311.3 . Establishment of prohibited item policy in a correctional or mental**
3608 **health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**

3609 (1)(a) As used in this section:

3610 (i) "Communication device" means a device designed to receive or transmit an
3611 image, text message, email, video, location information, or voice communication,
3612 or another device that can be used to communicate electronically.

3613 (ii) "Controlled substance" means a substance defined as a controlled substance under
3614 Title 58, Chapter 37, Utah Controlled Substances Act.

3615 (iii) "Correctional facility" means:

3616 (A) a facility operated by or contracting with the Department of Corrections to
3617 house an offender in either a secure or nonsecure setting;

3618 (B) a facility operated by a municipality or a county to house or detain an offender;

3619 (C) a juvenile detention facility; or

3620 (D) a building or grounds appurtenant to a facility or land granted to the state,
3621 municipality, or county for use as a correctional facility.

3622 (iv) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

3623 (v) "Electronic cigarette product" means the same as that term is defined in Section

- 3624 76-10-101.
- 3625 (vi) "Firearm" means the same as that term is defined in Section 76-10-501.
- 3626 (vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b,
- 3627 Pharmacy Practice Act, but does not include a controlled substance as defined in
- 3628 Title 58, Chapter 37, Utah Controlled Substances Act.
- 3629 (viii) "Mental health facility" means the same as that term is defined in Section
- 3630 26B-5-301.
- 3631 (ix) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 3632 (x) "Offender" means an individual in custody at a correctional facility.
- 3633 (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 3634 (xii) "Tobacco product" means the same as that term is defined in Section 76-10-101.
- 3635 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 3636 (2)(a) Notwithstanding Section 76-10-500, a correctional facility or mental health
- 3637 facility may prohibit a firearm, ammunition, a dangerous weapon, an implement of
- 3638 escape, an explosive, a controlled substance, spirituous or fermented liquor,
- 3639 medicine, or poison from being:
- 3640 (i) transported to or within a correctional facility or mental health facility;
- 3641 (ii) sold or given away to an offender at a correctional facility or mental health
- 3642 facility; or
- 3643 (iii) possessed by an offender or another individual at a correctional facility or mental
- 3644 health facility.
- 3645 (b) A correctional facility may prohibit a communication device from being:
- 3646 (i) transported within the correctional facility for the purpose of being sold to an
- 3647 offender in the correctional facility;
- 3648 (ii) sold or given away to an offender in the correctional facility; or
- 3649 (iii) possessed by an offender or another individual at the correctional facility.
- 3650 (3) It is a defense to a prosecution related to this section that the actor, in committing the act
- 3651 made criminal by this section with respect to:
- 3652 (a) a correctional facility operated by the Department of Corrections, acted in conformity
- 3653 with departmental rule or policy;
- 3654 (b) a correctional facility operated by a municipality, acted in conformity with the policy
- 3655 of the municipality;
- 3656 (c) a correctional facility operated by a county, acted in conformity with the policy of
- 3657 the county; or

- 3658 (d) a mental health facility, acted in conformity with the policy of the mental health
3659 facility.
- 3660 (4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under
3661 Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or
3662 76-8-311.11 for a violation of a policy or rule created under this section.
- 3663 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an
3664 explosive in a correctional facility or a mental health facility may be punished under
3665 Section 76-10-306.
- 3666 (c) The possession, distribution, or use of a controlled substance at a correctional facility
3667 or in a secure area of a mental health facility shall be charged under Title 58, Chapter
3668 37, Utah Controlled Substances Act.
- 3669 (5) Exemptions to a policy or rule created under this section may be granted for worship of
3670 Native American inmates in accordance with Section 64-13-40.

3671 Section 90. Section **76-8-411** is amended to read:

3672 **76-8-411 . Trafficking in warrants.**

- 3673 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 3675 (2) An actor commits trafficking in warrants if the actor:
- 3676 (a) is [a] an officer of the state, a county, a city, a town, or a district[~~officer~~]; and
- 3677 (b) directly or indirectly contracts for or purchases a warrant or order issued by the state,
3678 county, city, town, or district of which the actor is an officer, at any discount
3679 whatever upon the sum due on the warrant or order.
- 3680 (3) A violation of Subsection (2) is a class B misdemeanor.

3681 Section 91. Section **76-9-101** is amended to read:

3682 **CHAPTER 9. OFFENSES AGAINST PUBLIC ORDER, HEALTH, AND SAFETY**

3683 **Part 1. Breaches of the Peace and Related Offenses**

3684 **76-9-101 . Riot.**

- 3685 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 3686 (2) [~~An individual is guilty of~~] An actor commits riot if the [individual] actor:
- 3687 (a) simultaneously with two or more other individuals engages in violent conduct,
3688 knowingly or recklessly creating a substantial risk of causing public alarm;
- 3689 (b) assembles with two or more other individuals with the purpose of engaging, soon
3690 thereafter, in violent conduct, knowing, that two or more other individuals in the
3691 assembly have the same purpose;[~~or~~]

3692 (c) assembles with two or more other individuals with the purpose of committing an
 3693 offense against a person, or the property of another person who the [individual] actor
 3694 supposes to be guilty of a violation of law, believing that two or more other
 3695 individuals in the assembly have the same purpose[.]; or

3696 ~~[(2)] (d) [Any individual who] refuses to comply with a lawful order to withdraw prior~~
 3697 ~~to, during, or immediately following a violation of [Subsection (1) is guilty of riot].~~
 3698 ~~It is no defense to a prosecution under this Subsection (2) that withdrawal must take~~
 3699 ~~place over private property; provided, however, that an individual who withdraws in~~
 3700 ~~compliance with an order to withdraw may not incur criminal or civil liability by~~
 3701 ~~virtue of acts reasonably necessary to accomplish the withdrawal.]~~ Subsection (2)(a),
 3702 (b), or (c).

3703 ~~(3)(a) Except as provided in Subsection [(4), riot] (3)(b), a violation of Subsection (2) is~~
 3704 ~~a class B misdemeanor.~~

3705 ~~[(4)] (b) [Riot] A violation of Subsection (2) is a third degree felony if, in the course of~~
 3706 ~~the [conduct] violation:~~

3707 ~~[(a)] (i) the [individual] actor causes substantial or serious bodily injury;~~

3708 ~~[(b)] (ii) the [individual] actor causes substantial property damage or commits arson; or~~

3709 ~~[(c)] (iii) the [individual] actor was in possession of a dangerous weapon[as defined in~~
 3710 ~~Section 76-1-101.5].~~

3711 ~~(4) It is not a defense to a prosecution under Subsection (2)(d) that in order for an actor to~~
 3712 ~~comply with an order to withdraw the actor must enter or cross over private property.~~

3713 ~~(5) An actor is not criminally or civilly liable for actions that the actor takes that are~~
 3714 ~~reasonably necessary to comply with an order to withdraw under Subsection (2)(d).~~

3715 ~~[(5)] (6) An [individual] actor arrested for a violation of Subsection [(4)-] (2) may not be~~
 3716 ~~released from custody before the [individual] actor appears before a magistrate or a judge.~~

3717 ~~[(6) The court shall order a defendant convicted under Subsection (4) to pay restitution in~~
 3718 ~~accordance with Section 77-38b-205.]~~

3719 Section 92. Section **76-9-102** is amended to read:

3720 **76-9-102 . Disorderly conduct.**

3721 (1)(a) As used in this section:

3722 ~~[(a)] (i) "Official meeting" means:~~

3723 ~~[(i)] (A) a meeting, as defined in Section 52-4-103;~~

3724 ~~[(ii)] (B) a meeting of the Legislature, the Utah Senate, the Utah House of~~
 3725 ~~Representatives, a legislative caucus, or any committee, task force, working~~

- 3726 group, or other organization in the state legislative branch; or
 3727 [(iii)] (C) a meeting of an entity created by the Utah Constitution, Utah Code, Utah
 3728 administrative rule, legislative rule, or a written rule or policy of the
 3729 Legislative Management Committee.
- 3730 [(b)] (ii) "Public place" means a place to which the public or a substantial group of the
 3731 public has access, including:
 3732 [(i)] (A) streets or highways; and
 3733 [(ii)] (B) the common areas of schools, hospitals, apartment houses, office
 3734 buildings, public buildings, public facilities, transport facilities, and shops.
- 3735 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3736 (2) An ~~[individual is guilty of]~~ actor commits disorderly conduct if:
 3737 (a) the ~~[individual]~~ actor refuses to comply with the lawful order of a law enforcement
 3738 officer to move from a public place or an official meeting, or knowingly creates a
 3739 hazardous or physically offensive condition~~[-]~~by any act that serves no legitimate
 3740 purpose; or
 3741 (b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating
 3742 a risk of public inconvenience, annoyance, or alarm, the ~~[person]~~ actor:
 3743 (i) engages in fighting or in violent, tumultuous, or threatening behavior;
 3744 (ii) makes unreasonable noises in a public place or an official meeting;
 3745 (iii) makes unreasonable noises in a private place ~~[which]~~ that can be heard in a public
 3746 place or an official meeting; or
 3747 (iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.
- 3748 ~~[(3) The mere carrying or possession of a holstered or encased firearm, whether visible or~~
 3749 ~~concealed, without additional behavior or circumstances that would cause a reasonable~~
 3750 ~~person to believe the holstered or encased firearm was carried or possessed with~~
 3751 ~~criminal intent, does not constitute a violation of this section. Nothing in this Subsection~~
 3752 ~~(3) may limit or prohibit a law enforcement officer from approaching or engaging any~~
 3753 ~~person in a voluntary conversation.]~~
- 3754 [(4)] (3)(a) ~~[An individual who violates this section is guilty of:]~~ Except as provided in
 3755 Subsection (3)(b), (c), or (d), a violation of Subsection (2) is an infraction.
 3756 [(a) ~~except as provided in Subsection (4)(b), (c), or (d), an infraction;~~
 3757 (b) ~~[except]~~ Except as provided in Subsection [(4)(e) or (d),] (3)(c) or (d), a violation of
 3758 Subsection (2) is a class C misdemeanor[-] if the violation occurs after the ~~[individual]~~
 3759 actor has been asked to cease conduct prohibited under this section~~[-]~~ .

3760 (c) ~~[except]~~ Except as provided in Subsection ~~(4)(d)~~ (3)(d), a violation of Subsection (2)
 3761 is a class B misdemeanor[;] if:

3762 (i) the violation occurs after the [individual] actor has been asked to cease conduct
 3763 prohibited under this section; and

3764 (ii) within five years before the day on which the [individual] actor violates this
 3765 section, the [individual] actor was previously convicted of a violation of this
 3766 section[; or] .

3767 (d) A violation of Subsection (2) is a class A misdemeanor[;] if:

3768 (i) the violation occurs after the [individual] actor has been asked to cease conduct
 3769 prohibited under this section; and

3770 (ii) within five years before the day on which the [individual] actor violates this
 3771 section, the [individual] actor was previously convicted of two or more violations
 3772 of this section.

3773 (4)(a) The mere carrying or possession of a holstered or encased firearm, whether
 3774 visible or concealed, without additional behavior or circumstances that would cause a
 3775 reasonable person to believe the holstered or encased firearm was carried or
 3776 possessed with criminal intent, does not constitute a violation of this section.

3777 (b) Subsection (4)(a) does not limit or prohibit a law enforcement officer from
 3778 approaching or engaging an individual in a voluntary conversation.

3779 Section 93. Section **76-9-103** is amended to read:

3780 **76-9-103 . Disrupting a meeting or procession.**

3781 (1) Terms defined in Section 76-1-101.5 apply to this section.

3782 (2) ~~[A person is guilty of]~~ An actor commits disrupting a meeting or procession if[;] the
 3783 actor:[-intending to prevent or disrupt a lawful meeting, procession, or gathering,]

3784 (a) ~~[-he-]~~obstructs or interferes with [the] a lawful meeting, procession, or gathering by
 3785 physical action, verbal utterance, or any other means; and

3786 (b) intends the obstruction or disruption described in Subsection (2)(a) to prevent or
 3787 disrupt the meeting, procession, or gathering.

3788 ~~[(2)] (3) [Disrupting a meeting or procession]~~ A violation of Subsection (2) is a class B
 3789 misdemeanor.

3790 Section 94. Section **76-9-104** is amended to read:

3791 **76-9-104 . Failure to disperse.**

3792 (1) Terms defined in Section 76-1-101.5 apply to this section.

3793 (2) ~~[A person is guilty of]~~ An actor commits failure to disperse if the actor:

- 3794 (a) ~~[-when he remains-]~~ is at the scene of a riot, disorderly conduct, or an unlawful
 3795 assembly; and
- 3796 (b) ~~[-]~~ remains at the scene of the riot, disorderly conduct, or unlawful assembly after
 3797 having been ordered to disperse by a peace officer.
- 3798 ~~[(2) This section shall not apply to a person who attempted to but was unable to leave the~~
 3799 ~~scene of the riot or unlawful assembly.]~~
- 3800 (3) ~~[Failure to disperse-]~~ A violation of Subsection (2) is a class C misdemeanor.
- 3801 (4) This section does not apply to an actor who attempts to leave the scene of a riot,
 3802 disorderly conduct, or unlawful assembly but is unsuccessful in leaving the scene.
- 3803 Section 95. Section **76-9-105** is amended to read:
- 3804 **76-9-105 . Making a false alarm.**
- 3805 (1)(a) As used in this section, "weapon of mass destruction" means the same as that
 3806 term is defined in Section 76-10-401.
- 3807 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3808 (2) ~~[A person is guilty of]~~ An actor commits making a false alarm if ~~[he]~~ the actor:
- 3809 (a) ~~[-]~~ initiates or circulates a report or warning of [any] a fire, impending bombing, or
 3810 other crime or catastrophe[-]; and
- 3811 (b) ~~[-knowing]~~ knows that that the report or warning described in Subsection (2)(a) is:
- 3812 (i) ~~[-]~~ false or baseless[-and];
- 3813 (ii) ~~[-is-]~~ likely to cause the evacuation of [any] a building, place of assembly, or
 3814 facility of public transport[-]; and
- 3815 (iii) ~~[-to]~~ likely to cause public inconvenience or alarm or action of any sort [by any]
 3816 by an official or volunteer agency organized to deal with emergencies.
- 3817 ~~[(2)(a) A person is guilty of a second degree felony if the person makes a false alarm~~
 3818 ~~relating to a weapon of mass destruction as defined in Section 76-10-401.]~~
- 3819 ~~[(b) A person is guilty of a third degree felony if:]~~
- 3820 ~~[(i) the person makes a false alarm alleging on ongoing act or event, or an imminent threat;~~
 3821 ~~and]~~
- 3822 ~~[(ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or~~
 3823 ~~death to another person.]~~
- 3824 ~~[(c) Making a false alarm other than under Subsection (2)(a) or (b) is a class B~~
 3825 ~~misdemeanor.]~~
- 3826 (3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a
 3827 class B misdemeanor.

- 3828 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third
3829 degree felony if:
3830 (i) the actor makes a false alarm alleging an ongoing act or event, or an imminent
3831 threat; and
3832 (ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or
3833 death to another individual.
3834 (c) A violation of Subsection (2) is a second degree felony if the false alarm is regarding
3835 a weapon of mass destruction.

3836 (4) In addition to any other penalty authorized by law, a court shall order ~~[any person]~~ an
3837 actor convicted of a felony violation of this section to reimburse any federal, state, or
3838 local unit of government, or any private business, organization, individual, or entity for
3839 all expenses and losses incurred in responding to the violation, unless the court states on
3840 the record the reasons why the court finds the reimbursement would be inappropriate.

3841 Section 96. Section **76-9-105.5**, which is renumbered from Section 76-9-202 is renumbered
3842 and amended to read:

3843 **[76-9-202] 76-9-105.5 . Emergency reporting abuse.**

3844 (1)(a) As used in this section:

3845 (i) "Emergency" means a situation in which property or human life is in jeopardy and
3846 the prompt summoning of aid is essential to the preservation of human life or
3847 property.

3848 (ii) "Party line" means a subscriber's line or telephone circuit:

3849 (A) that consists of two or more connected main telephone stations; and

3850 (B) where each telephone station has a distinctive ring or telephone number.

3851 (iii) "Weapon of mass destruction" means the same as that term is defined in Section
3852 76-10-401.

3853 (b) Terms defined in Sections 76-1-101.5 apply to this section.

3854 (2) An actor ~~[is guilty of]~~ commits emergency reporting abuse if the actor:

3855 ~~[(a) intentionally refuses to yield or surrender the use of a party line or a public pay~~
3856 ~~telephone to another individual upon being informed that the telephone is needed to~~
3857 ~~report a fire or summon police, medical, or other aid in case of emergency, unless the~~
3858 ~~telephone is likewise being used for an emergency call;]~~

3859 ~~[(b) asks for or requests the use of a party line or a public pay telephone on the pretext~~
3860 ~~that an emergency exists, knowing that no emergency exists;]~~

3861 ~~[(c)]~~ (a) ~~[except as provided in Subsection (2)(d),]~~ reports an emergency or causes an

3862 emergency to be reported, through any means, to a public, private, or volunteer entity
3863 whose purpose is to respond to fire, police, or medical emergencies, when the actor
3864 knows the reported emergency does not exist;

3865 [(d)] (b) makes a false report, or intentionally aids, abets, or causes another person to
3866 make a false report, through any means to an emergency response service, including
3867 a law enforcement dispatcher or a 911 emergency response service, if the false report
3868 claims that:

3869 (i) an emergency exists or will exist;

3870 (ii) the emergency described in Subsection [(2)(d)(i)] (2)(b)(i) involves an imminent
3871 or future threat of serious bodily injury, serious physical injury, or death; and

3872 (iii) the emergency described in Subsection [(2)(d)(i)] (2)(b)(i) is occurring, or will
3873 occur, at a specified location; or

3874 [(e)] (c) makes a false report after having previously made a false report, or intentionally
3875 aides, abets, or causes a third party to make a false report, to an emergency response
3876 service, including a law enforcement dispatcher or a 911 emergency response service,
3877 alleging a violation of Section 63G-31-302 regarding a sex-designated changing
3878 room.

3879 (3)[(a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.]

3880 [(b)] (a) Except as provided in Subsection (3)(b), a violation of Subsection [(2)(e)]
3881 (2)(a) is a class B misdemeanor~~[, except as provided under Subsection (3)(e)].~~

3882 [(e)] (b) A violation of Subsection [(2)(e)] (2)(a) is a second degree felony if the report is
3883 regarding a weapon of mass destruction~~[, as defined in Section 76-10-401].~~

3884 [(d)] (c) A violation of Subsection [(2)(d)] (2)(b) is a second degree felony[-].

3885 [(e)] (d) A violation of Subsection [(2)(e)] (2)(c) is a class B misdemeanor.

3886 (4)(a) In addition to another penalty authorized by law, a court shall order an actor
3887 convicted of a violation of this section to reimburse a federal, state, or local unit of
3888 government, or a private business, organization, individual, or entity for all expenses
3889 and losses incurred in responding to the violation.

3890 (b) The court may order that the ~~[defendant]~~ actor pay less than the full amount of the
3891 costs described in Subsection (4)(a) only if the court states on the record the reasons
3892 why the reimbursement would be inappropriate.

3893 Section 97. Section **76-9-105.6** is enacted to read:

3894 **76-9-105.6 . Prohibited use of a party line or public pay telephone in an**
3895 **emergency.**

3896 (1)(a) As used in this section:

3897 (i) "Emergency" means the same as that term is defined in Section 76-9-105.5.

3898 (ii) "Party line" means the same as that term is defined in Section 76-9-105.5.

3899 (b) Terms defined in Section 76-1-101.5 apply to this section.

3900 (2) An actor commits prohibited use of a party line or public pay telephone in an
3901 emergency if the actor:

3902 (a) intentionally refuses to yield or surrender the use of a party line or a public pay
3903 telephone to another individual upon being informed that the party line or public pay
3904 telephone is needed to report a fire or summon police, medical, or other aid in case of
3905 an emergency; or

3906 (b) asks for or requests the use of a party line or a public pay telephone on the pretext
3907 that an emergency exists, knowing that no emergency exists.

3908 (3) A violation of Subsection (2) is a class C misdemeanor.

3909 (4) Subsection (2)(a) does not apply if the actor refuses to yield or surrender the use of the
3910 party line or public pay telephone because the actor is using the party line or public pay
3911 telephone to report an emergency.

3912 (5)(a) In addition to another penalty authorized by law, a court shall order an actor
3913 convicted of a violation of this section to reimburse a federal, state, or local unit of
3914 government, or a private business, organization, individual, or entity for all expenses
3915 and losses incurred in responding to the violation.

3916 (b) The court may order that the actor pay less than the full amount of the costs
3917 described in Subsection (5)(a) only if the court states on the record the reasons why
3918 the full reimbursement would be inappropriate.

3919 Section 98. Section **76-9-106** is amended to read:

3920 **76-9-106 . Disrupting the operation of a school.**

3921 (1) Terms defined in Section 76-1-101.5 apply to this section.

3922 (2) ~~[A person is guilty of]~~ An actor commits disrupting the operation of a school if the [
3923 person,] actor:

3924 (a) ~~[-after being asked to leave by a school official, remains]~~ is on [school] the property of
3925 a private or public school, including property being used by the school for a school
3926 function;

3927 (b) ~~[-for]~~ has the purpose of encouraging or creating an unreasonable and substantial
3928 disruption or risk of disruption of a class, activity, program, or other function of [a
3929 public or private school] the school; and

- 3930 (c) remains on the property after being requested to leave by a school official.
- 3931 [~~(2) For purposes of this section, "school property" includes property being used by a~~
- 3932 ~~public or private school for a school function.]~~
- 3933 (3) [~~Disrupting the operation of a school-] A violation of Subsection (2) is a class B~~
- 3934 misdemeanor.
- 3935 Section 99. Section **76-9-107** is amended to read:
- 3936 **76-9-107 . Unauthorized entry onto a school bus.**
- 3937 (1)(a) As used in this section:
- 3938 [~~(a)] (i) "Driver" means the driver of [the] a school bus.~~
- 3939 [~~(b)] (ii) "School bus" means [every] a publicly or privately owned motor vehicle~~
- 3940 designed for transporting 10 or more passengers and operated for the
- 3941 transportation of children to or from school or school activities.
- 3942 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3943 (2) [~~A person is guilty of a class B misdemeanor if the person] An actor commits~~
- 3944 unauthorized entry onto a school bus if the actor:
- 3945 (a) enters a school bus with the intent to commit a criminal offense;
- 3946 (b) enters a school bus and disrupts or interferes with the driver; or
- 3947 (c) enters a school bus and refuses to leave the school bus after being ordered to leave by
- 3948 the driver and the [~~person] actor:~~
- 3949 [~~(i) is not a peace officer acting within the scope of his or her authority as a peace~~
- 3950 ~~officer;]~~
- 3951 [~~(ii) is not authorized by the school district to board the bus as a student or as an~~
- 3952 ~~individual employed by the school district or volunteering as a participant in a~~
- 3953 ~~school activity;]~~
- 3954 [~~(iii)] (i) causes or attempts to cause a disruption or an annoyance to any passenger on~~
- 3955 ~~the school bus; or~~
- 3956 [~~(iv)] (ii) is reckless as to whether the [~~person's] actor's presence or behavior will cause~~~~
- 3957 ~~fear [on the part of any] to a passenger on the school bus.~~
- 3958 (3) A violation of Subsection (2) is a class B misdemeanor.
- 3959 (4) Subsection (2)(c) does not apply:
- 3960 (a) if the actor is a peace officer acting within the scope of the peace officer's authority;
- 3961 or
- 3962 (b) the actor is authorized by the school district to board the school bus as:
- 3963 (i) a student;

3964 (ii) an individual employed by the school district; or

3965 (iii) a volunteer participant in a school activity.

3966 [~~(3)~~] (5) Each school district shall ensure that clearly legible signs [~~be~~] warning that
 3967 unauthorized entry onto a school bus is a violation of the law are placed on each school
 3968 bus[,-] and next to each entrance to the bus[,- warning that unauthorized entry of a
 3969 school bus is a violation of state law].

3970 Section 100. Section **76-9-108** is amended to read:

3971 **76-9-108 . Disrupting a funeral or memorial service.**

3972 (1)(a) As used in this section:

3973 [~~(a)~~] (i) "Funeral procession" means a procession of two or more motor vehicles
 3974 where:

3975 [(i)] (A) the operators of the vehicles identify themselves as being part of the
 3976 procession by having the lamps or lights of the vehicle on and by keeping in
 3977 close formation with the other vehicles in the procession;

3978 [(ii)] (B) at least one vehicle contains the body or remains of a deceased person
 3979 being memorialized; and

3980 [(iii)] (C) the vehicles are going to or from a memorial service.

3981 [(b)] (ii) "Memorial service" means a wake, funeral, graveside service, burial, or other
 3982 ceremony or rite held in connection with the burial or cremation of an individual.

3983 [(c)] (iii) "Memorial site" means a church, synagogue, mosque, funeral home,
 3984 mortuary, cemetery, grave site, mausoleum, or other place at which a memorial
 3985 service is conducted.

3986 [(d)] (iv) "Disruptive activity" means:

3987 [(i)] (A) a loud or disruptive oration or speech that is not part of the memorial
 3988 service;

3989 [(ii)] (B) the display of a placard, banner, poster, flag, or other item that is not part
 3990 of the memorial service; or

3991 [(iii)] (C) the distribution of any handbill, pamphlet, leaflet, or other written
 3992 material or other item that is not part of the memorial service.

3993 (b) Terms defined in Section 76-1-101.5 apply to this section.

3994 (2) [~~A person is guilty of a class B misdemeanor if the person,-] An actor commits
 3995 disrupting a funeral or memorial service if the actor:~~

3996 (a) [~~with intent~~] intends to disrupt [the] a memorial service[,-] ; and

3997 (b) [~~-~~] does any of the following during the period beginning 60 minutes immediately

3998 before the scheduled commencement of [a] the memorial service and ending 60
 3999 minutes after the conclusion of [a] the memorial service:
 4000 [(a)] (i) obstructs, hinders, impedes, or blocks another [person's] individual's entry to
 4001 or exit from the memorial site;
 4002 [(b)] (ii) obstructs, hinders, impedes, or blocks a funeral procession;
 4003 [(c)] (iii) makes unreasonable noise; or
 4004 [(d)] (iv) engages in a disruptive activity within 200 feet of the memorial service.

4005 (3) A violation of Subsection (2) is a class B misdemeanor.

4006 Section 101. Section **76-9-109** is amended to read:

4007 **76-9-109 . Targeted residential picketing.**

4008 (1)(a) As used in this section:

4009 [(a)] (i) "Picketing" means the stationing or posting of one or more individuals to
 4010 apprise the public, vocally or by standing or marching with signs, banners, sound
 4011 amplification devices, or other means, of an opinion or a message.

4012 [(b)] (ii) "Residence" means any single-family, duplex, or multi-family dwelling unit
 4013 that is not being used as a targeted occupant's sole place of business or as a place
 4014 of public meeting.

4015 [(c) "Targeted residential picketing" means picketing, with or without signs, that is
 4016 specifically directed or focused toward a residence, or one or more occupants of
 4017 the residence, and that takes place:]

4018 [(i) on that portion of a sidewalk or street in front of the residence, in front of an
 4019 adjoining residence, or on either side of the targeted residence; or]

4020 [(ii) within 100 feet of the property line of the targeted residence.]

4021 (b) Terms defined in Section 76-1-101.5 apply to this section.

4022 (2) [~~It is unlawful to engage in~~] An actor commits targeted residential picketing[-] if:

4023 (a)(i) the actor engages in picketing, with or without signs, specifically directed or

4024 focused toward a residence, or one or more occupants of the residence; and

4025 (ii) the actor's conduct described in Subsection (2)(a)(i) takes place:

4026 (A) on a portion of a sidewalk or street in front of the residence, in front of an
 4027 adjoining residence, or on either side of the targeted residence; or

4028 (B) within 100 feet of the property line of the targeted residence; or

4029 (b)(i) the actor publishes, posts, disseminates, or discloses another individual's

4030 residential address, or other information identifying the specific location of the

4031 individual's residence; and

4032 (ii) the actor intends to cause another individual to engage in the conduct described in
4033 Subsection (2)(a) directed or focused toward the individual's residence.

4034 (3) A violation of Subsection (2) is a class B misdemeanor.

4035 [~~(3)~~] (4) This section does not apply to:

- 4036 (a) an ~~[individual]~~ actor picketing at the [individual's] actor's own residence;
- 4037 (b) the picketing of a meeting place or assembly area commonly used to discuss subjects
4038 of general public interest; or
- 4039 (c) general picketing that proceeds through residential neighborhoods or that proceeds
4040 past residences.

4041 [~~(4) It is unlawful to publish, post, disseminate, or disclose an individual's residential~~
4042 ~~address, or other information identifying the specific location of an individual's~~
4043 ~~residence, with the intent to cause another individual to engage in targeted residential~~
4044 ~~picketing.]~~

4045 [~~(5) Targeted residential picketing is a class B misdemeanor.]~~

4046 [~~(6) A violation of Subsection (4) is a class B misdemeanor.]~~

4047 Section 102. Section **76-9-110**, which is renumbered from Section 76-9-701 is renumbered
4048 and amended to read:

4049 **[76-9-701]76-9-110 . Public intoxication.**

4050 (1)(a) As used in this section, "minor" means an individual who is younger than 21
4051 years old.

4052 (b) Terms defined in Section 76-1-101.5 apply to this section.

4053 (2) [~~A person is guilty of~~] An actor commits public intoxication if the [person] actor:

- 4054 (a)(i) [~~-] is in a public place; or~~
4055 (ii) is in a private place where the actor could unreasonably disturb other individuals;
- 4056 (b) is under the influence of alcohol, a controlled substance, or any substance having the
4057 property of releasing toxic vapors[-] ; and
- 4058 (c) [~~to a degree that the person] is under the influence to a degree that it may endanger~~
4059 ~~the [person] actor or another individual[, in a public place or in a private place where~~
4060 ~~the person unreasonably disturbs other persons].~~

4061 (3) A violation of Subsection (2) is a class C misdemeanor.

4062 [~~(2)~~] (4)(a) A peace officer or a magistrate may release an actor from custody [~~a person]~~
4063 arrested under this section if the peace officer or magistrate believes [~~imprisonment]~~
4064 incarceration is unnecessary for the protection of the [~~person]~~ actor or another
4065 individual.

- 4066 (b) A peace officer may take the ~~[arrested person]~~ actor to a detoxification center or other
4067 special facility as an alternative to incarceration or release from custody.
- 4068 ~~[(3)]~~ (5)(a) If a minor is found by a court to have ~~[violated this section]~~ committed a
4069 violation of Subsection (2) and the violation is the minor's first violation of ~~[this~~
4070 ~~section]~~ Subsection (2), the court may:
- 4071 (i) order the minor to complete a screening as defined in Section 41-6a-501;
 - 4072 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
4073 screening indicates an assessment to be appropriate; and
 - 4074 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
4075 or substance use disorder treatment as indicated by an assessment.
- 4076 (b) If a minor is found by a court to have violated ~~[this section]~~ Subsection (2) and the
4077 violation is the minor's second or subsequent violation of ~~[this section]~~ Subsection (2),
4078 the court shall:
- 4079 (i) order the minor to complete a screening as defined in Section 41-6a-501;
 - 4080 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
4081 screening indicates an assessment to be appropriate; and
 - 4082 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
4083 or substance use disorder treatment as indicated by an assessment.
- 4084 ~~[(4)]~~ (6)(a) When a minor who is at least 18 years old, but younger than 21 years old, is
4085 found by a court to have violated ~~[this section]~~ Subsection (2), the court ~~[hearing the~~
4086 ~~ease-]~~ shall suspend the minor's driving privileges under Section 53-3-219.
- 4087 (b) Notwithstanding the requirement in Subsection ~~[(4)(a)]~~ (6)(a), the court may reduce
4088 the suspension period required under Section 53-3-219 if:
- 4089 (i) the violation is the minor's first violation of ~~[this section]~~ Subsection (2); and
 - 4090 (ii)(A) the minor completes an educational series as defined in Section 41-6a-501;
4091 or
4092 (B) the minor demonstrates substantial progress in substance use disorder
4093 treatment.
- 4094 (c) Notwithstanding the requirement in Subsection ~~[(4)(a)]~~ (6)(a) and in accordance with
4095 the requirements of Section 53-3-219, the court may reduce the suspension period
4096 required under Section 53-3-219 if:
- 4097 (i) the violation is the minor's second or subsequent violation of ~~[this section]~~
4098 Subsection (2);
 - 4099 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or

4100 demonstrated substantial progress in substance use disorder treatment; and
4101 (iii)(A) the [person] minor is 18 years old or older and provides a sworn statement
4102 to the court that the [person] minor has not unlawfully consumed alcohol or
4103 drugs for at least a one-year consecutive period during the suspension period
4104 imposed under Subsection [(4)(a)] (6)(a); or
4105 (B) the [person] minor is under 18 years old and has the [person's] minor's parent or
4106 legal guardian provide an affidavit or sworn statement to the court certifying
4107 that to the parent or legal guardian's knowledge the [person] minor has not
4108 unlawfully consumed alcohol or drugs for at least a one-year consecutive
4109 period during the suspension period imposed under Subsection [(4)(a)] (6)(a).
4110 [(5)] (7) When a [person] minor who is younger than 18 years old is found by a court to have
4111 violated [this section] Subsection (2), the provisions regarding suspension of the driver's
4112 license under Section 80-6-707 apply to the violation.
4113 [(6)] (8) Notwithstanding Subsections [(3)(a)] (5)(a) and (b), if a minor is adjudicated under
4114 Section 80-6-701, the court may only order substance use disorder treatment or an
4115 educational series if the minor has an assessed need for the intervention based on the
4116 results of a validated assessment.
4117 [(7)] (9) When the court issues an order suspending [a person's] an actor's driving privileges
4118 for a violation of [this section] Subsection (2), the [person's] actor's driver license shall be
4119 suspended under Section 53-3-219.
4120 [(8) An offense under this section is a class C misdemeanor.]
4121 Section 103. Section **76-9-111**, which is renumbered from Section 76-9-702.3 is renumbered
4122 and amended to read:
4123 **[76-9-702.3]76-9-111 . Public urination.**
4124 (1) Terms defined in Section 76-1-101.5 apply to this section.
4125 (2) [A person is guilty of] An actor commits public urination if the [person] actor urinates or
4126 defecates:
4127 (a) in a public place, other than a public rest room; and
4128 (b) under circumstances which the [person] actor should know will likely cause affront or
4129 alarm to another individual.
4130 [(2)] (3) [Public urination-] A violation of Subsection (2) is an infraction.
4131 Section 104. Section **76-9-112**, which is renumbered from Section 76-9-705 is renumbered
4132 and amended to read:
4133 **[76-9-705]76-9-112 . Participation in an ultimate fighting match.**

- 4134 [(1) For purposes of this section, "ultimate fighting match" means a live match in which:]
4135 [(a) an admission fee is charged;]
4136 [(b) match rules permit professional contestants to use a combination of boxing, kicking,
4137 wrestling, hitting, punching, or other combative, contact techniques; and]
4138 [(e) match rules do not:]
4139 [(i) incorporate a formalized system of combative techniques against which a contestant's
4140 performance is judged to determine the prevailing contestant;]
4141 [(ii) divide a match into two or more equal and specified time periods for a match total of
4142 no more than 50 minutes; or]
4143 [(iii) prohibit contestants from:]
4144 [(A) using anything that is not part of the human body, except for boxing gloves, to
4145 intentionally inflict serious bodily injury upon an opponent through direct contact or the
4146 expulsion of a projectile;]
4147 [(B) striking a person who demonstrates an inability to protect himself from the advances
4148 of an opponent;]
4149 [(C) biting; or]
4150 [(D) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the
4151 neck, and temple area of the head.]
- 4152 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 4153 (2) [~~Any person who~~] An actor commits participation in an ultimate fighting match if the
4154 actor publicizes, promotes, conducts, or engages in [an ultimate fighting] a live fighting
4155 match in which:
4156 (a) an admission fee is charged;
4157 (b) match rules permit professional contestants to use a combination of boxing, kicking,
4158 wrestling, hitting, punching, or other combative, contact techniques; and
4159 (c) match rules do not:
4160 (i) incorporate a formalized system of combative techniques against which a
4161 contestant's performance is judged to determine the prevailing contestant;
4162 (ii) divide a match into two or more equal and specified time periods for a match total
4163 of no more than 50 minutes; or
4164 (iii) prohibit contestants from:
4165 (A) using anything that is not part of the human body, except for boxing gloves, to
4166 intentionally inflict serious bodily injury upon an opponent through direct
4167 contact or the expulsion of a projectile;

- 4168 (B) striking an individual who demonstrates an inability to protect the individual's
 4169 self from the advances of an opponent;
 4170 (C) biting; or
 4171 (D) using direct, intentional, and forceful strikes to the eyes, groin area, adam's
 4172 apple area of the neck, or temple area of the head.

4173 (3) A violation of Subsection (2) is~~[-guilty of]~~ a class A misdemeanor.

4174 Section 105. Section **76-9-113**, which is renumbered from Section 76-10-2402 is renumbered
 4175 and amended to read:

4176 **[76-10-2402] 76-9-113 . Commercial obstruction.**

4177 (1)(a) As used in this section:

4178 (i)(A) "Building" means a watercraft, aircraft, trailer, sleeping car, or other
 4179 structure or vehicle adapted for overnight accommodations of individuals or
 4180 for carrying on business and includes:

4181 (I) each separately secured or occupied portion of the building or vehicle; and

4182 (II) each structure appurtenant or connected to the building or vehicle.

4183 (B) "Building" includes the commonly accepted meaning of building.

4184 (ii) "Business" means a retail business dealing in tangible personal property.

4185 (iii) "Enter" means:

4186 (A) an intrusion of any part of the body; or

4187 (B) the intrusion of any physical object under the control of the actor.

4188 (b) Terms defined in Section 76-1-101.5 apply to this section.

4189 ~~[(1)]~~ (2)~~[(a) A person is guilty of a misdemeanor if the person-]~~ An actor commits

4190 commercial obstruction if the actor:

4191 (a) enters or remains unlawfully on the premises of or in a building of any business; and

4192 (b) [-with the intent] intends to interfere with the employees, customers, personnel, or
 4193 operations of [a] the business[- through any conduct that does not constitute an offense
 4194 listed under Subsection (2)].

4195 ~~[(b)]~~ (3) A violation of Subsection ~~[(1)(a)]~~ (2) is a class A misdemeanor.

4196 ~~[(2) A person is guilty of felony commercial obstruction if the person enters or remains~~
 4197 ~~unlawfully on the premises or in a building of any business with the intent to interfere~~
 4198 ~~with the employees, customers, personnel, or operations of a business and also with the~~
 4199 ~~intent to:]~~

4200 ~~[(a) obtain unauthorized control over any merchandise, property, records, data, or~~
 4201 ~~proprietary information of the business;]~~

4202 [(b) alter, eradicate, or remove any merchandise, records, data, or proprietary information
4203 of the business;]

4204 [(e) damage, deface, or destroy any property on the premises of the business;]

4205 [(d) commit an assault on any person; or]

4206 [(e) commit any other felony.]

4207 [(3) A person who violates any provision in Subsection (2) is guilty of a second-degree
4208 felony.]

4209 (4) This section does not apply to:

4210 (a) an action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et
4211 seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

4212 [(5)] (b) [This section does not apply to a person's] an individual's exercise of the rights
4213 under the First Amendment to the Constitution of the United States or under [Article
4214 I, Sec. 15 of the]Utah Constitution, Article I, Section 15.

4215 Section 106. Section **76-9-114** is enacted to read:

4216 **76-9-114 . Aggravated commercial obstruction.**

4217 (1)(a) As used in this section:

4218 (i) "Building" means the same as that term is defined in Section 76-9-113.

4219 (ii) "Business" means the same as that term is defined in Section 76-9-113.

4220 (iii) "Enter" means the same as that term is defined in Section 76-9-113.

4221 (b) Terms defined in Section 76-1-101.5 apply to this section.

4222 (2) An actor commits aggravated commercial obstruction if the actor:

4223 (a) enters or remains unlawfully on the premises or in a building of any business;

4224 (b) intends to interfere with the employees, customers, personnel, or operations of the
4225 business; and

4226 (c) intends to:

4227 (i) obtain unauthorized control over any merchandise, property, records, data, or
4228 proprietary information of the business;

4229 (ii) alter, eradicate, or remove any merchandise, records, data, or proprietary
4230 information of the business;

4231 (iii) damage, deface, or destroy any property on the premises of the business;

4232 (iv) commit an assault on any person; or

4233 (v) commit any other felony.

4234 (3) A violation of Subsection (2) is a second degree felony.

4235 (4) This section does not apply to:

- 4236 (a) an action protected by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq.,
 4237 or the Federal Railway Labor Act, 45 U.S.C. Sec.151 et seq; or
 4238 (b) an individual's exercise of the rights under the First Amendment to the Constitution
 4239 of the United States or under Utah Constitution, Article I, Section 15.

4240 Section 107. Section **76-9-601** is amended to read:

4241

Part 6. Offenses Concerning the Military and the Flag

4242 **76-9-601 . Abuse of a flag.**

4243 (1) Terms defined in Section 76-1-101.5 apply to this section.

4244 ~~[(1)]~~ (2) ~~[A person is guilty of]~~ An actor commits abuse of a flag if ~~[he]~~ the actor:

4245 (a) ~~[Intentionally]~~ intentionally places any unauthorized inscription or other thing upon [
 4246 any] a flag of the United States or of [any] a state of the United States;~~[-or]~~

4247 (b) ~~[Knowingly]~~ knowingly exhibits [~~any such~~] a flag of the United States or of a state of
 4248 the United States with an unauthorized inscription or other thing, knowing the
 4249 inscription or other thing ~~[to be]~~ is unauthorized;~~[-or]~~

4250 (c) ~~[For purposes of advertising a product or service for sale or for distribution,]~~ affixes
 4251 a representation of the flag of the United States or of a state of the United States to [
 4252 the] a product or on [any] a display whereon the product or service is advertised for
 4253 the purpose of advertising a product or service for sale or for distribution; or

4254 (d) ~~[Knowingly]~~ knowingly casts contempt upon the flag of the United States or of any
 4255 state of the United States by publicly mutilating, defacing, defiling, burning, or
 4256 trampling upon [it] the flag.

4257 ~~[(2)]~~ (3) ~~[Abuse of a flag]~~ A violation of Subsection (2) is a class B misdemeanor.

4258 Section 108. Section **76-9-602**, which is renumbered from Section 76-9-706 is renumbered
 4259 and amended to read:

4260 ~~[76-9-706]~~ **76-9-602 . False representation of the military .**

4261 (1)~~(a)~~ As used in this section:

4262 ~~[(a)]~~ (i) "Military related organization" means a public or private society, order, or
 4263 organization that:

4264 ~~[(i)]~~ (A) only accepts as a member, [~~a person]~~ an individual, or the relative of [~~a~~
 4265 person] an individual, who is:

4266 ~~[(A)]~~ (I) a member of the military; or

4267 ~~[(B)]~~ (II) an honorably discharged member of the military; and

4268 ~~[(ii)]~~ (B) is organized for the purpose of:

4269 [(A)] (I) recognizing or honoring [a person] an individual for military service;

4270 [(B)] (II) assisting [a person] an individual described in Subsection (1)(a)(i) to

4271 lawfully associate with, or provide service with, other [people] individuals

4272 described in Subsection (1)(a)(i); or

4273 [(C)] (III) provide support for, or assistance to, [a person] an individual

4274 described in Subsection (1)(a)(i).

4275 [(b)] (ii) "Service medal" means:

4276 [(i)] (A) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);

4277 [(ii)] (B) a distinguished service cross, as defined in 10 U.S.C 3742;

4278 [(iii)] (C) a Navy cross, as defined in 10 U.S.C. 6242;

4279 [(iv)] (D) an Air Force cross, as defined in 10 U.S.C. 8742;

4280 [(v)] (E) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;

4281 [(vi)] (F) a bronze star, as defined in 10 U.S.C. 1133;

4282 [(vii)] (G) a purple heart, as defined in 10 U.S.C. 1129;

4283 [(viii)] (H) any decoration or medal authorized by the Congress of the United

4284 States for the armed forces of the United States;

4285 [(ix)] (I) any service medal or badge awarded to members of the armed forces of

4286 the United States;

4287 [(x)] (J) any of the following Utah National Guard medals or ribbons:

4288 [(A)] (I) medal of valor;

4289 [(B)] (II) Utah cross;

4290 [(C)] (III) joint medal of merit;

4291 [(D)] (IV) Utah medal of merit;

4292 [(E)] (V) joint commendation medal;

4293 [(F)] (VI) commendation medal;

4294 [(G)] (VII) achievement ribbon;

4295 [(H)] (VIII) joint staff service ribbon;

4296 [(I)] (IX) state partnership service ribbon;

4297 [(J)] (X) service ribbon;

4298 [(K)] (XI) military funeral honors service ribbon;

4299 [(L)] (XII) emergency service ribbon; or

4300 [(M)] (XIII) recruiting ribbon;

4301 [(xi)] (K) any ribbon, button, or rosette for a decoration, medal, or badge described

4302 in Subsections [(1)(b)(i) through (x)] (1)(a)(ii)(A) through (J); or

- 4303 ~~[(xii)]~~ (L) an imitation of a decoration, medal, badge, ribbon, button, or rosette
4304 described in Subsections ~~[(1)(b)(i) through (xi)]~~ (1)(a)(ii)(A) through (K).
- 4305 **(b)** Terms defined in Section 76-1-101.5 apply to this section.
- 4306 (2) ~~[Any person who]~~ An actor commits false representation of the military if the actor:
4307 (a) intentionally makes a false representation, verbally or in writing, that the ~~[person]~~
4308 actor has been awarded a service medal~~[is guilty of an infraction.]~~ ;
- 4309 ~~[(3)]~~ (b)(i) ~~[Any person who wears,]~~purchases, attempts to purchase, solicits for
4310 purchase, mails, ships, imports, exports, produces blank certificates of receipt for,
4311 manufactures, sells, attempts to sell, advertises for sale, trades, barter, or
4312 exchanges for anything of value a service medal, or ~~[any]~~ a colorable imitation [
4313 thereof, except when authorized by federal law, or under regulations made
4314 pursuant to federal law,] of a service medal; and
- 4315 (ii) ~~[with the intent]~~ intends to defraud[;] another individual or ~~[with the intent]~~ to
4316 falsely represent that the ~~[person]~~ actor or another ~~[person]~~ individual has been
4317 awarded a service medal~~[is guilty of an infraction.]~~ ;
- 4318 ~~[(4)]~~ (c) ~~[A person is guilty of an infraction if the person]~~ wears or uses a service medal
4319 of a military related organization:
4320 ~~[(a)]~~ (i) that the ~~[person]~~ actor is not entitled to wear or use; and
4321 ~~[(b)]~~ (ii) ~~[with the intent to]~~ with the intention to defraud another individual or ~~[with~~
4322 the intent]to falsely represent that the ~~[person]~~ actor or another ~~[person]~~ individual
4323 has been awarded the service medal~~[;]~~ ; or
- 4324 ~~[(5)]~~ (d) ~~[A person is guilty of an infraction if the person]~~ uses the name, an officer title,
4325 an insignia, a ritual, or a ceremony of a military related organization:
4326 ~~[(a)]~~ (i) that the ~~[person]~~ actor is not entitled to use; and
4327 ~~[(b)]~~ (ii) ~~[with the intent]~~ with the intention to defraud[;] or [with the intent to]falsely
4328 represent that the ~~[person]~~ actor or another ~~[person]~~ individual was or is a member,
4329 representative, or officer of the military related organization.
- 4330 **(3)** A violation of Subsection (2) is an infraction.
- 4331 **(4)** Subsection (2)(b) does not apply if the actor is authorized under a federal law or a
4332 federal regulation to undertake the conduct described.

4333 Section 109. Section **76-9-802** is amended to read:

4334

Part 8. Criminal Gang Related Offenses

4335 **76-9-802 . Definitions.**

4336 As used in this part:

- 4337 (1) "Criminal street gang" means an organization, association in fact, or group of three or
4338 more ~~[persons]~~ individuals, whether operated formally or informally:
- 4339 (a) that is currently in operation;
- 4340 (b) that has as one of ~~[its]~~ the organization's, association's, or group's primary activities
4341 the commission of one or more predicate gang crimes;
- 4342 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
- 4343 (d) whose members, acting individually or in concert with other members, engage in or
4344 have engaged in a pattern of criminal gang activity.
- 4345 ~~[(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of~~
4346 ~~harm for the purpose of causing an individual to act or refrain from acting.]~~
- 4347 (2) "Gang loitering" means an individual remains in one place under circumstances that
4348 would cause a reasonable person to believe that the purpose or effect of that behavior is
4349 to enable or facilitate a criminal street gang to:
- 4350 (a) establish control over one or more identifiable areas;
- 4351 (b) intimidate other individuals from entering those areas; or
- 4352 (c) conceal illegal activities.
- 4353 (3) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
4354 harm for the purpose of causing an individual to act or refrain from acting.
- 4355 ~~[(3)]~~ (4) "Minor" means ~~[a person]~~ an individual younger than 18 years old.
- 4356 ~~[(4)]~~ (5) "Pattern of criminal gang activity" means:
- 4357 (a) committing, attempting to commit, conspiring to commit, or soliciting the
4358 commission of two or more predicate gang crimes within five years;
- 4359 (b) the predicate gang crimes are:
- 4360 (i) committed by two or more persons; or
- 4361 (ii) committed by an individual at the direction of, or in association with, a criminal
4362 street gang; and
- 4363 (c) the criminal activity was committed with the specific intent to promote, further, or
4364 assist in any criminal conduct by members of the criminal street gang.
- 4365 ~~[(5)]~~ (6)(a) "Predicate gang crime" means any of the following offenses:
- 4366 (i) Title 41, Chapter 1a, Motor Vehicle Act:
- 4367 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
4368 identification number;
- 4369 (B) Section 41-1a-1315, regarding false evidence of title and registration;

- 4370 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 4371 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
- 4372 identification number; or
- 4373 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
- 4374 number;
- 4375 (ii) any criminal violation of the following provisions:
- 4376 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 4377 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 4378 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 4379 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 4380 (iii) ~~[Sections]~~ assault as described in Section 76-5-102~~[through]~~ ;
- 4381 (iv) aggravated assault by prisoner as described in Section 76-5-103.5~~[, which~~
- 4382 ~~address assault offenses]~~;
- 4383 ~~[(iv)]~~ (v) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;
- 4384 ~~[(v)]~~ (vi) [Sections] kidnapping as described in Section 76-5-301;
- 4385 (vii) child kidnapping as described in Section 76-5-301.1;
- 4386 (viii) parental kidnapping as described in Section 76-5-301.2;
- 4387 (ix) aggravated kidnapping as described in Section 76-5-302;
- 4388 (x) custodial interference as described in Section 76-5-303;
- 4389 (xi) [through 76-5-304, which address kidnapping and related offenses] unlawful
- 4390 detention and unlawful detention of a minor as described in Section 76-5-304;
- 4391 ~~[(vi)]~~ (xii) a felony offense [under] described in Title 76, Chapter 5, Part 4, Sexual
- 4392 Offenses;
- 4393 ~~[(vii)]~~ (xiii) an offense described in Title 76, Chapter 6, Part 1, Property Destruction;
- 4394 ~~[(viii)]~~ (xiv) an offense described in Title 76, Chapter 6, Part 2, Burglary and Criminal
- 4395 Trespass;
- 4396 ~~[(ix)]~~ (xv) an offense described in Title 76, Chapter 6, Part 3, Robbery;
- 4397 ~~[(x)]~~ (xvi) a felony offense [under] described in Title 76, Chapter 6, Part 4, Theft, or
- 4398 under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5,
- 4399 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6,
- 4400 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
- 4401 ~~[(xi)]~~ (xvii) an offense described in Title 76, Chapter 6, Part 5, Fraud, except Sections
- 4402 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512,
- 4403 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

- 4404 [(xii)] (xviii) an offense described in Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 4405 [(xiii)] (xix) an offense described in Title 76, Chapter 8, Part 3, Obstructing
- 4406 Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307,
- 4407 76-8-308, and 76-8-312;
- 4408 [(xiv)] (xx) tampering with a witness [~~under~~] as described in Section 76-8-508;
- 4409 [(xv)] (xxi) retaliation against a witness, victim, or informant [~~under~~] as described in
- 4410 Section 76-8-509.3;
- 4411 [(xvi)] (xxii) receiving or soliciting a bribe as a witness [~~under~~] as described in Section
- 4412 76-8-508.7;
- 4413 [(xvii)] (xxiii) extortion or bribery to dismiss a criminal proceeding [~~under~~] as
- 4414 described in Section 76-8-509;
- 4415 [(xviii)] (xxiv) a misdemeanor violation of disorderly conduct [~~under~~] as described in
- 4416 Section 76-9-102 [UPDATE CITE], if the violation occurs at an official meeting;
- 4417 [(xix)] (xxv) an offense described in Title 76, Chapter 10, Part 3, Explosives
- 4418 [UPDATE CITE];
- 4419 [(xx)] (xxvi) an offense described in Title 76, Chapter 10, Part 5, Weapons [UPDATE
- 4420 CITE];
- 4421 [(xxi)] (xxvii) an offense described in Title 76, Chapter 10, Part 15, Bus Passenger
- 4422 Safety Act [UPDATE CITE];
- 4423 [(xxii)] (xxviii) an offense described in Title 76, Chapter 10, Part 16, Pattern of
- 4424 Unlawful Activity Act [UPDATE CITE];
- 4425 [(xxiii)] (xxix) communications fraud under Section 76-10-1801 [UPDATE CITE];
- 4426 [(xxiv)] (xxx) an offense described in Title 76, Chapter 10, Part 19, Money
- 4427 Laundering and Currency Transaction Reporting Act [UPDATE CITE]; or
- 4428 [(xxv)] (xxxi) burglary of a research facility [~~under~~] as described in Section
- 4429 76-10-2002 [UPDATE CITE].
- 4430 (b) "Predicate gang crime" [~~also~~] includes:
- 4431 (i) [~~any~~] a state or federal criminal offense that by [~~its~~] the offense's nature involves a
- 4432 substantial risk that physical force may be used against another individual in the
- 4433 course of committing the offense; and
- 4434 (ii) [~~any~~] a felony violation of a criminal statute of [~~any other~~] another state, the
- 4435 United States, or [~~any~~] a district, possession, or territory of the United States which
- 4436 would constitute a violation of any offense in Subsection [(4)(a)] (6)(a) if
- 4437 committed in this state.

- 4438 (7)(a) "Public place" means any location or structure that the public or a substantial
 4439 group of the public has access to.
- 4440 (b) "Public place" includes:
- 4441 (i) a sidewalk, street, or highway;
 4442 (ii) a public park, public recreation facility, or any other area open to the public;
 4443 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or
 4444 playhouse;
 4445 (iv) a parking lot or structure adjacent to a shopping mall, sports facility, stadium,
 4446 arena, theater, movie house, or playhouse;
 4447 (v) a common area of a school, hospital, apartment building, office building,
 4448 transport facility, or a business; and
 4449 (vi) a lobby, hallway, elevator, restaurant or other dining area, or restroom of a
 4450 location or structure described in Subsections (7)(b)(i) through (v).

4451 Section 110. Section **76-9-803** is amended to read:

4452 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
 4453 **criminal street gang.**

- 4454 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 4455 ~~[(1)]~~ (2) ~~[It is a class B misdemeanor to]~~ An actor commits soliciting, recruiting, enticing, or
 4456 intimidating a minor to join a criminal street gang if the actor:
- 4457 (a) ~~[solicit, recruit, entice, or intimidate]~~ solicits, recruits, entices, or intimidates a minor
 4458 to join a criminal street gang~~[-, whether or not the minor actually joins the criminal~~
 4459 street gang];
- 4460 (b) ~~[conspire]~~ conspires to commit [any] an act~~[-under-]~~ described in Subsection ~~[(1)(a)]~~
 4461 (2)(a) with the intent to cause a minor to join a criminal street gang; or
- 4462 (c) ~~[use]~~ uses intimidation to prevent, or attempt to prevent, a minor from leaving a
 4463 criminal street gang or ending the minor's affiliation with a criminal street gang.
- 4464 (3) A violation of Subsection (2) is a class B misdemeanor.
- 4465 ~~[(2) It is a class A misdemeanor for any person who is a member of or actively involved~~
 4466 with a criminal street gang to:]
- 4467 ~~[(a) intimidate or otherwise cause a minor to commit or attempt to commit any~~
 4468 misdemeanor criminal offense; or]
- 4469 ~~[(b) commit a violation of Subsection (1)(a):]~~
- 4470 ~~[(i) more than once;]~~
- 4471 ~~[(ii) regarding the same minor; and]~~

- 4472 [(iii) within a period of 180 days.]
- 4473 [(3) Prosecution for any offense under this section does not prohibit prosecution for any
- 4474 other criminal offense.]
- 4475 (4) It is not a defense to a prosecution under Subsection (2)(a) that the minor did not join
- 4476 the criminal street gang.
- 4477 Section 111. Section **76-9-803.5** is enacted to read:
- 4478 **76-9-803.5 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
- 4479 **criminal street gang by a gang member.**
- 4480 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 4481 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
- 4482 criminal street gang by a gang member if the actor:
- 4483 (a) is a member of, or actively involved with, a criminal street gang; and
- 4484 (b) solicits, recruits, entices, or intimidates a specific minor to join a criminal street gang
- 4485 more than once within a period of 180 days.
- 4486 (3) A violation of Subsection (2) is a class A misdemeanor.
- 4487 (4) It is not a defense to a prosecution under this section that the minor described in
- 4488 Subsection (2) did not join a criminal street gang.
- 4489 Section 112. Section **76-9-803.6** is enacted to read:
- 4490 **76-9-803.6 . Intimidating or causing a minor to commit a misdemeanor by a gang**
- 4491 **member.**
- 4492 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 4493 (2) An actor commits intimidating or causing a minor to commit a misdemeanor by a gang
- 4494 member if the actor:
- 4495 (a) is a member of, or actively involved with, a criminal street gang; and
- 4496 (b) intimidates or otherwise causes a minor to commit or attempt to commit a
- 4497 misdemeanor criminal offense.
- 4498 (3) A violation of Subsection (2) is a class A misdemeanor.
- 4499 Section 113. Section **76-9-804** is amended to read:
- 4500 **76-9-804 . Possession of a dangerous weapon by a convicted criminal gang**
- 4501 **offender.**
- 4502 (1)(a) As used in this section, "dangerous weapon" means the same as that term is
- 4503 defined in Sections 76-1-101.5 and 76-11-101.
- 4504 (b) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 4505 [(1)] (2) [A person who has been convicted of a crime for which the penalty was enhanced

4506 under Section 76-3-203.1 may not, except where a greater penalty is applicable under
 4507 this title,] An actor commits possession of a dangerous weapon by a convicted criminal
 4508 gang offender if:

4509 (a) the actor possess a dangerous weapon[as defined in either Section 76-1-101.5 or
 4510 76-10-501], ammunition, or a facsimile of a firearm; and

4511 (b) [-] the actor's possession described in Subsection (2)(a) occurs within five years [after
 4512 the conviction] after the day on which the actor was convicted of an offense that was
 4513 enhanced under Section 76-3-203.1.

4514 ~~[(2)] (3)~~ A violation of Subsection ~~[(1)] (2)~~ is a class A misdemeanor.

4515 Section 114. Section **76-9-805**, which is renumbered from Section 76-9-904 is renumbered
 4516 and amended to read:

4517 **[76-9-904] 76-9-805 . Failure to disperse.**

4518 ~~[(1)(a) Failure to comply with an order issued under Subsection 76-9-903(1)(b) to disperse~~
 4519 ~~is a class B misdemeanor of failure to disperse.]~~

4520 ~~[(b) Any second and subsequent violation of Subsection (1)(a) is a class B misdemeanor of~~
 4521 ~~failure to disperse and is subject to a fine of not less than \$100, unless the court finds~~
 4522 ~~mitigating circumstances justifying a lesser punishment and makes that finding a part of~~
 4523 ~~the court record.]~~

4524 ~~[(2)(a) A person is guilty of a class B misdemeanor of subsequent failure to disperse who:]~~

4525 ~~[(i) is present in a public place with or as part of a group of two or more persons, and that~~
 4526 ~~group includes one or more persons a peace officer reasonably believes to be a member~~
 4527 ~~of a criminal street gang; and]~~

4528 ~~[(ii) is within sight or hearing of a location where a law enforcement officer issued an~~
 4529 ~~order to the person to disperse under Section 76-9-903 within the prior eight hours.]~~

4530 ~~[(b) A violation of Subsection (2)(a) is subject to a fine of not less than \$100, unless the~~
 4531 ~~court finds mitigating circumstances justifying a lesser punishment and makes that~~
 4532 ~~finding a part of the court record.]~~

4533 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

4534 (2) An actor commits failure to disperse if the actor:

4535 (a) is in a place designated as an area where gang loitering is prohibited under Section
 4536 11-48-104;

4537 (b) is ordered by a law enforcement officer under Section 77-7-28 to disperse from
 4538 within sight and hearing of the location described in Subsection (2)(a); and

4539 (c)(i) fails to disperse as ordered in Subsection (2)(b); or

- 4540 (ii) disperses and then returns to the location within the next eight hours after
4541 receiving the order to disperse under Subsection (2)(b).
- 4542 (3)(a) Subject to Subsection (3)(b), a violation of Subsection (2) is a class B
4543 misdemeanor.
- 4544 (b) In addition to the punishment described in Subsection (3)(a), a subsequent violation
4545 of Subsection (2) is subject to a fine of not less than \$100.
- 4546 (4) A court may sentence an actor under Subsection (3)(b) with a lesser punishment if the
4547 court, on the record, finds that mitigating circumstances justify the lesser punishment.
- 4548 (5) This section does not affect or limit an actor's constitutional right to engage in collective
4549 advocacy activities that are protected by the constitution or laws of this state or by the
4550 constitution or laws of the United States.

4551 Section 115. Section **76-9-1101**, which is renumbered from Section 76-10-101 is renumbered
4552 and amended to read:

4553 **Part 11. Cigarettes, Tobacco, and Psychotoxic Chemical Solvents**

4554 **[76-10-101]76-9-1101 . Definitions.**

4555 As used in this part:

- 4556 (1)(a) "Alternative nicotine product" means a product, other than a cigarette, a
4557 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine
4558 product, or a tobacco product, that:
- 4559 (i) contains nicotine;
 - 4560 (ii) is intended for human consumption;
 - 4561 (iii) is not purchased with a prescription from a licensed physician; and
 - 4562 (iv) is not approved by the United States Food and Drug Administration as nicotine
4563 replacement therapy.
- 4564 (b) "Alternative nicotine product" includes:
- 4565 (i) pure nicotine;
 - 4566 (ii) snortable nicotine;
 - 4567 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
 - 4568 (iv) nicotine-laced food and beverage.
- 4569 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
4570 contains naturally occurring nicotine.
- 4571 (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary
4572 conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any

- 4573 substance containing tobacco, other than any roll of tobacco that is a cigarette.
- 4574 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned
4575 under ordinary conditions of use, and consists of:
- 4576 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
4577 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
4578 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is
4579 likely to be offered to, or purchased by, consumers as a cigarette described in
4580 Subsection (3)(a).
- 4581 (4)(a) "Electronic cigarette" means:
- 4582 (i) ~~any~~ an electronic oral device:
- 4583 (A) that provides an aerosol or a vapor of nicotine or other substance; and
4584 (B) ~~which~~ that simulates smoking through the use or inhalation of the device;
- 4585 (ii) a component of the device described in Subsection (4)(a)(i); or
4586 (iii) an accessory sold in the same package as the device described in Subsection
4587 (4)(a)(i).
- 4588 (b) "Electronic cigarette" includes an oral device that is:
- 4589 (i) composed of a heating element, battery, or electronic circuit; and
4590 (ii) marketed, manufactured, distributed, or sold as:
- 4591 (A) an e-cigarette;
4592 (B) an e-cigar;
4593 (C) an e-pipe; or
4594 (D) any other product name or descriptor, if the function of the product meets the
4595 definition of Subsection (4)(a).
- 4596 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is
4597 defined in Section 26B-4-201.
- 4598 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
4599 substance, or a prefilled electronic cigarette.
- 4600 (6) "Electronic cigarette substance" means any substance, including liquid containing
4601 nicotine, used or intended for use in an electronic cigarette.
- 4602 (7)(a) "Flavored electronic cigarette product" means an electronic cigarette product that
4603 has a taste or smell that is distinguishable by an ordinary consumer either before or
4604 during use or consumption of the electronic cigarette product.
- 4605 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is
4606 labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy,

- 4607 cocoa, dessert, alcoholic beverage, herb, spice, or mint.
- 4608 (c) "Flavored electronic cigarette product" does not include an electronic cigarette
4609 product that has a taste or smell of only tobacco or menthol.
- 4610 (8) "Nicotine" means a poisonous, nitrogen[-] -containing chemical that is made
4611 synthetically or derived from tobacco or other plants.
- 4612 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine
4613 product.
- 4614 (10)(a) "Nontherapeutic nicotine device" means a device that:
- 4615 (i) has a pressurized canister that is used to administer nicotine to the user through
4616 inhalation or intranasally;
- 4617 (ii) is not purchased with a prescription from a licensed physician; and
- 4618 (iii) is not approved by the United States Food and Drug Administration as nicotine
4619 replacement therapy.
- 4620 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
4621 nontherapeutic nicotine nasal spray.
- 4622 (11) "Nontherapeutic nicotine device substance" means a substance that:
- 4623 (a) contains nicotine;
- 4624 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 4625 (c) is not purchased with a prescription from a licensed physician; and
- 4626 (d) is not approved by the United States Food and Drug Administration as nicotine
4627 replacement therapy.
- 4628 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
4629 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 4630 (13) "Place of business" includes:
- 4631 (a) a shop;
- 4632 (b) a store;
- 4633 (c) a factory;
- 4634 (d) a public garage;
- 4635 (e) an office;
- 4636 (f) a theater;
- 4637 (g) a recreation hall;
- 4638 (h) a dance hall;
- 4639 (i) a poolroom;
- 4640 (j) a cafe;

- 4641 (k) a cafeteria;
- 4642 (l) a cabaret;
- 4643 (m) a restaurant;
- 4644 (n) a hotel;
- 4645 (o) a lodging house;
- 4646 (p) a streetcar;
- 4647 (q) a bus;
- 4648 (r) an interurban or railway passenger coach;
- 4649 (s) a waiting room; and
- 4650 (t) any other place of business.
- 4651 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with
- 4652 an electronic cigarette substance.
- 4653 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that
- 4654 is sold prefilled with a nontherapeutic nicotine device substance.
- 4655 (16) "Premarket authorized or pending electronic cigarette product" means an electronic
- 4656 cigarette product that:
- 4657 (a)(i) has been approved by an order granting a premarket tobacco product
- 4658 application of the electronic cigarette product by the United States Food and Drug
- 4659 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or
- 4660 (ii)(A) was marketed in the United States on or before August 8, 2016;
- 4661 (B) the manufacturer submitted a premarket tobacco product application for the
- 4662 electronic cigarette product to the United States Food and Drug Administration
- 4663 under 21 U.S.C. Sec. 387j on or before September 9, 2020; and
- 4664 (C) has an application described in Subsection (16)(a)(ii) that either remains under
- 4665 review by the United States Food and Drug Administration or a final decision
- 4666 on the application has not taken effect; and
- 4667 (b) does not exceed:
- 4668 (i) 4.0% nicotine by weight per container; or
- 4669 (ii) a nicotine concentration of 40 milligrams per milliliter.
- 4670 (17) "Retail tobacco specialty business" means the same as that term is defined in Section
- 4671 26B-7-501.
- 4672 (18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted
- 4673 smoking equipment.
- 4674 (19)(a) "Tobacco paraphernalia" means equipment, product, or material of any kind that

4675 is used, intended for use, or designed for use to package, repackage, store, contain,
4676 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic
4677 cigarette substance, or a nontherapeutic nicotine device substance into the human
4678 body.

4679 (b) "Tobacco paraphernalia" includes:

- 4680 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
4681 screens, permanent screens, hashish heads, or punctured metal bowls;
- 4682 (ii) water pipes;
- 4683 (iii) carburetion tubes and devices;
- 4684 (iv) smoking and carburetion masks;
- 4685 (v) roach clips, meaning objects used to hold burning material, such as a cigarette,
4686 that has become too small or too short to be held in the hand;
- 4687 (vi) chamber pipes;
- 4688 (vii) carburetor pipes;
- 4689 (viii) electric pipes;
- 4690 (ix) air-driven pipes;
- 4691 (x) chillums;
- 4692 (xi) bongs; and
- 4693 (xii) ice pipes or chillers.

4694 (c) "Tobacco paraphernalia" does not include matches or lighters.

4695 (20) "Tobacco product" means:

- 4696 (a) a cigar;
- 4697 (b) a cigarette; or
- 4698 (c) tobacco in any form, including:
 - 4699 (i) chewing tobacco; and
 - 4700 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

4701 (21) "Tobacco retailer" means:

- 4702 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or
- 4703 (b) a retail tobacco specialty business.

4704 Section 116. Section **76-9-1102**, which is renumbered from Section 76-10-102 is renumbered
4705 and amended to read:

4706 **[76-10-102] 76-9-1102 . Cigarette or tobacco advertising violation.**

4707 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

4708 (2) Except as provided in Subsection (4), an actor commits cigarette or tobacco advertising

4709 ~~violation if the actor~~[It is a class B misdemeanor for any person to display] displays on [
4710 any] a billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of
4711 display, [any] an advertisement of cigarettes, cigarette papers, cigars, chewing tobacco,
4712 or smoking tobacco or any disguise or substitute of cigarettes, cigarette papers, tobacco,
4713 or cigars.[either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or
4714 their substitutes, may have a sign on the front of his place of business stating that he is a
4715 dealer in the articles; provided that nothing herein shall be construed to prohibit the
4716 advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any
4717 substitute of either, in any newspaper, magazine or periodical printed or circulating in
4718 this state.]

4719 (3) A violation of Subsection (2) is a class B misdemeanor.

4720 (4)(a) A dealer of cigarettes, cigarette papers, tobacco, cigars, or a substitute for
4721 cigarettes, cigarette papers, tobacco, or cigars may have a sign on the front of the
4722 dealer's place of business stating that the dealer is a dealer of cigarettes, cigarette
4723 papers, tobacco, cigars, or a substitute for cigarettes, cigarette papers, tobacco, or
4724 cigars.

4725 (b) This section does not prohibit the advertisement of an item listed in Subsection (4)(a)
4726 in a newspaper, magazine or periodical printed or circulating in this state.

4727 [(2) ~~Any advertisement for smokeless tobacco placed in a newspaper, magazine, or~~
4728 ~~periodical published in this state must bear a warning which states: "Use of smokeless~~
4729 ~~tobacco may cause oral cancer and other mouth disorders and is addictive." This~~
4730 ~~warning must be in a conspicuous location and in conspicuous and legible type, in~~
4731 ~~contrast with the typography, layout, and color of all other printed material in the~~
4732 ~~advertisement. For purposes of this subsection, "smokeless tobacco" means any finely~~
4733 ~~cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity or~~
4734 ~~nasal passage. In the event the United States Congress passes legislation which requires~~
4735 ~~warnings in advertisements of smokeless tobacco, the specific language required to be~~
4736 ~~placed in advertisements by that legislation shall take precedence over this subsection.]~~

4737 Section 117. Section **76-9-1103**, which is renumbered from Section 76-10-103 is renumbered
4738 and amended to read:

4739 **[76-10-103]76-9-1103 . Permitting a minor to use a tobacco product, electronic**
4740 **cigarette product, or nicotine product in a place of business.**

4741 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

4742 (2) An actor commits permitting a minor to use a tobacco product, electronic cigarette

4743 product, or nicotine product in a place of business if the actor:

4744 (a) is a proprietor of a place of business; and

4745 (b) [~~It is a class C misdemeanor for the proprietor of any place of business to~~

4746 knowingly permit] knowingly permits an individual under 21 years old to frequent [a]

4747 the actor's place of business while the individual is using a tobacco product, an

4748 electronic cigarette product, or a nicotine product.

4749 (3) A violation of Subsection (2) is a class C misdemeanor.

4750 Section 118. Section **76-9-1104**, which is renumbered from Section 76-10-104 is renumbered

4751 and amended to read:

4752 **[76-10-104] 76-9-1104 . Providing a cigar, a cigarette, an electronic cigarette**

4753 **product, a nicotine product, or tobacco to a minor.**

4754 (1)(a) As used in this section, "provides":

4755 [(a)] (i) includes selling, giving, furnishing, sending, or causing to be sent; and

4756 [(b)] (ii) does not include the acts: [-]

4757 (A) of the United States Postal Service or other common carrier when engaged in

4758 the business of transporting and delivering packages for others; or

4759 (B) [~~or the acts~~] of a person, whether compensated or not, who transports or

4760 delivers a package for another person without any reason to know of the

4761 package's content.

4762 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

4763 (2) [~~An individual who~~] Except as provided in Subsection (4), an actor commits providing a

4764 cigar, cigarette, electronic cigarette product, nicotine product, or tobacco to a minor if

4765 the actor knowingly, intentionally, recklessly, or with criminal negligence provides a

4766 tobacco product, an electronic cigarette product, or a nicotine product to an individual

4767 who is under 21 years old[~~, is guilty of~~]

4768 [(a) ~~a class C misdemeanor on the first offense;~~]

4769 [(b) ~~a class B misdemeanor on the second offense; and~~]

4770 [(c) ~~a class A misdemeanor on any subsequent offense~~].

4771 (3) A violation of Subsection (2) is:

4772 (a) a class C misdemeanor on the first offense;

4773 (b) a class B misdemeanor on the second offense; or

4774 (c) a class A misdemeanor on the third or subsequent offense.

4775 [(3)] (4) This section does not apply to conduct of an employee of a tobacco retailer that is a

4776 violation of Section [~~76-10-114~~] 76-9-1116.

4777 Section 119. Section **76-9-1105**, which is renumbered from Section 76-10-104.1 is renumbered
4778 and amended to read:

4779 ~~[76-10-104.1]~~ **76-9-1105 . Providing tobacco paraphernalia to a minor.**

4780 (1)(a) As used in this section, "provides"[:] means the same as that term is defined in
4781 Section 76-9-1104.

4782 [(a) includes selling, giving, furnishing, sending, or causing to be sent; and]

4783 [(b) does not include the acts of the United States Postal Service or other common
4784 carrier when engaged in the business of transporting and delivering packages for
4785 others or the acts of a person, whether compensated or not, who transports or
4786 delivers a package for another person without any reason to know of the package's
4787 content.]

4788 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

4789 (2)[(a) It is unlawful for an individual to:] An actor commits providing tobacco
4790 paraphernalia to a minor if the actor knowingly, intentionally, recklessly, or with
4791 criminal negligence provide tobacco paraphernalia to an individual under 21 years
4792 old.

4793 [(b)] (3) ~~[An individual who violates this section is guilty of:]~~ A violation of Subsection (2)
4794 is:

4795 [(i)] (a) a class C misdemeanor on the first offense; [and] or

4796 [(ii)] (b) a class B misdemeanor on [any] a subsequent offense.

4797 Section 120. Section **76-9-1106**, which is renumbered from Section 76-10-105 is renumbered
4798 and amended to read:

4799 ~~[76-10-105]~~ **76-9-1106 . Buying or possessing a tobacco product or an electronic**
4800 **cigarette product by a minor.**

4801 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

4802 (2) ~~[An individual who]~~ An actor commits buying or possessing a tobacco product or an
4803 electronic cigarette product by a minor if the actor: [is 18 years old or older, but]

4804 (a) [-] is younger than 21 years old[-, and who] ; and

4805 (b) [-]buys or attempts to buy, accepts, or has in the [individual's] actor's possession a
4806 tobacco product, an electronic cigarette product, or a nicotine product[- is:] .

4807 [(a) guilty of an infraction; and]

4808 [(b) subject to:]

4809 [(i) a minimum fine or penalty of \$60; and]

4810 [(ii) participation in a court-approved tobacco education or cessation program, which

- 4811 may include a participation fee.]
- 4812 ~~[(2)]~~ (3)(a) If the actor is 18 years old or older but younger than 21 years old, a violation
- 4813 of Subsection (2) is:
- 4814 (i) an infraction; and
- 4815 (ii) subject to:
- 4816 (A) a minimum fine or penalty of \$60; and
- 4817 (B) participation in a court-approved tobacco education or cessation program,
- 4818 which may include a participation fee.
- 4819 (b) ~~[An individual who is under 18 years old and who buys or attempts to buy, accepts,~~
- 4820 ~~or has in the individual's possession a tobacco product, an electronic cigarette~~
- 4821 ~~product, or a nicotine product is subject to.]~~ If the actor is under 18 years old, a
- 4822 violation of Subsection (2) is a citation under Section 80-6-302, unless the violation
- 4823 is committed on school property under Section 53G-8-211.
- 4824 ~~[(b)]~~ (c) If a violation under this section is adjudicated under Section 80-6-701, the minor
- 4825 may be subject to the following:
- 4826 (i) a fine or penalty, in accordance with Section 80-6-709; and
- 4827 (ii) participation in a court-approved tobacco education program, which may include
- 4828 a participation fee.
- 4829 ~~[(3)]~~ (4)(a) A compliance officer appointed by a board of education under Section
- 4830 53G-4-402 may not issue a citation for a violation of this section committed on
- 4831 school property.
- 4832 (b) A cited violation committed on school property shall be addressed in accordance
- 4833 with Section 53G-8-211.
- 4834 Section 121. Section **76-9-1107**, which is renumbered from Section 76-10-105.1 is renumbered
- 4835 and amended to read:
- 4836 ~~[76-10-105.1]~~ **76-9-1107 . Illegal indirect sale of a tobacco product, an electronic**
- 4837 **cigarette product, or a nicotine product.**
- 4838 (1)(a) As used in this section:
- 4839 ~~[(a)]~~ (i) ~~[(+)]~~ (A) "Face-to-face exchange" means a transaction made in person
- 4840 between an individual and a retailer or retailer's employee.
- 4841 ~~[(+)]~~ (B) "Face-to-face exchange" does not include a sale through a vending
- 4842 machine or a self-service display.[:]
- 4843 ~~[(A) vending machine; or]~~
- 4844 ~~[(B) self-service display.]~~

- 4845 ~~[(b)]~~ (ii) "Retailer" means a person who:
- 4846 ~~[(i)]~~ (A) sells a tobacco product, an electronic cigarette product, or a nicotine
- 4847 product to an individual for personal consumption; or
- 4848 ~~[(ii)]~~ (B) operates a facility with a vending machine that sells a tobacco product, an
- 4849 electronic cigarette product, or a nicotine product.
- 4850 ~~[(e)]~~ (iii) "Self-service display" means a display of a tobacco product, an electronic
- 4851 cigarette product, or a nicotine product to which the public has access without the
- 4852 intervention of a retailer or retailer's employee.
- 4853 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 4854 (2) Except as provided in Subsection ~~[(3), a retailer may sell]~~ (4), an actor commits illegal
- 4855 indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product if
- 4856 the actor:
- 4857 (a) is a retailer; and
- 4858 (b) sells a tobacco product, an electronic cigarette product, or a nicotine product [only]
- 4859 in a manner that does not include a face-to-face exchange.
- 4860 (3) A violation of Subsection (2) is:
- 4861 (a) a class C misdemeanor on the first offense;
- 4862 (b) a class B misdemeanor on the second offense; or
- 4863 (c) a class A misdemeanor on the third or subsequent offense.
- 4864 ~~[(3)]~~ (4) The face-to-face sale requirement in Subsection (2) does not apply to:
- 4865 (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;
- 4866 (b) a sale from a vending machine or self-service display that is located in an area of a
- 4867 retailer's facility:
- 4868 (i) that is distinct and separate from the rest of the facility; and
- 4869 (ii) where the retailer only allows an individual who is under 21 years old to be
- 4870 present if the individual: [who complies with Subsection (4) to be present]
- 4871 (A) is accompanied by the actor's parent or legal guardian; or
- 4872 (B)(I) is present solely for the purpose of providing a service to the business,
- 4873 including making a delivery;
- 4874 (II) is monitored by the proprietor business or an employee of the business; and
- 4875 (III) is not permitted to make any purchase or conduct any commercial
- 4876 transaction other than the service described in Subsection (4)(b)(ii)(B)(II); or
- 4877 (c) a sale at a retail tobacco specialty business.
- 4878 ~~[(4)]~~ An individual who is under 21 years old may not enter or be present at a retail tobacco

- 4879 specialty business unless the individual is:]
- 4880 [(a) accompanied by a parent or legal guardian; or]
- 4881 [(b)(i) present at the retail tobacco specialty business solely for the purpose of providing a
- 4882 service to the retail tobacco specialty business, including making a delivery;]
- 4883 [(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of
- 4884 the retail tobacco specialty business; and]
- 4885 [(iii) not permitted to make any purchase or conduct any commercial transaction other than
- 4886 the service described in Subsection (4)(b)(i).]
- 4887 (5)(a) ~~[A-]~~ An individual's parent or legal guardian who accompanies~~[- under Subsection~~
- 4888 ~~(4)(a)-]~~ an individual into an area described in Subsection ~~[(3)(b) or into a retail~~
- 4889 ~~tobacco specialty business]~~ (4)(b)(ii)(A) may not allow the individual to purchase a
- 4890 tobacco product, an electronic cigarette product, or a nicotine product.
- 4891 (b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.
- 4892 [(6) ~~A violation of Subsection (2) or (4) is a:~~]
- 4893 [(a) ~~class C misdemeanor on the first offense;~~]
- 4894 [(b) ~~class B misdemeanor on the second offense; and]~~
- 4895 [(c) ~~class A misdemeanor on any subsequent offenses.~~]
- 4896 [(7) ~~An individual who violates Subsection (5) is guilty of an offense under Section~~
- 4897 ~~76-10-104.]~~
- 4898 Section 122. Section **76-9-1108** is enacted to read:
- 4899 **76-9-1108 . Illegal presence of a minor inside a tobacco specialty business.**
- 4900 (1)(a) As used in this section, "self-service display" means the same as that term is
- 4901 defined in Section 76-9-1107.
- 4902 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 4903 (2) Except as provided in Subsection (4), an actor commits illegal presence of a minor
- 4904 inside a tobacco specialty business if the actor:
- 4905 (a) is under 21 years old; and
- 4906 (b) enters or is present inside a retail tobacco specialty business.
- 4907 (3) A violation of Subsection (2) is:
- 4908 (a) a class C misdemeanor on the first offense;
- 4909 (b) a class B misdemeanor on the second offense; or
- 4910 (c) a class A misdemeanor on the third or subsequent offense.
- 4911 (4) An actor under 21 years old may enter or be present inside a tobacco specialty business
- 4912 if the actor is:

- 4913 (a) accompanied by the actor's parent or legal guardian; or
4914 (b)(i) present at the retail tobacco specialty business solely for the purpose of
4915 providing a service to the tobacco retail specialty business, including making a
4916 delivery;
4917 (ii) monitored by the proprietor of the retail tobacco specialty business or an
4918 employee of the retail tobacco specialty business; and
4919 (iii) not permitted to make any purchase or conduct any commercial transaction other
4920 than the service described in Subsection (4)(b)(i).

4921 (5)(a) An individual's parent or legal guardian who accompanies an individual under
4922 Subsection (4)(a) inside a tobacco specialty business may not allow the individual to
4923 purchase a tobacco product, an electronic cigarette product, or a nicotine product.

4924 (b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

4925 Section 123. Section **76-9-1109**, which is renumbered from Section 76-10-105.3 is renumbered
4926 and amended to read:

4927 **[76-10-105.3]76-9-1109 . Illegal sale or gift of clove cigarette.**

4928 (1)(a) As used in this section, "clove cigarette" means a cigarette that contains more
4929 than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly
4930 known as clove.

4931 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

4932 (2) [It is unlawful for any person to knowingly sell, offer for sale, give or furnish any
4933 clove cigarette in this state. For purposes of this section "clove cigarette" means any
4934 cigarette which contains more than 10%, by weight, of raw eugenia caryophyllata or
4935 caryophyllus, commonly known as clove. Any person who violates this section is guilty
4936 of.] An actor commits illegal sale or gift of clove cigarette if the actor knowingly sells,
4937 offers for sale, gives, or furnishes a clove cigarette in this state.

4938 (3) A violation of Subsection (2) is a class B misdemeanor.

4939 Section 124. Section **76-9-1110**, which is renumbered from Section 76-10-107 is renumbered
4940 and amended to read:

4941 **[76-10-107]76-9-1110 . Abuse of psychotoxic chemical solvent.**

4942 (1)(a) As used in this section, "psychotoxic chemical solvent" includes any glue,
4943 cement, or other substance containing one or more of the following chemical
4944 compounds:

4945 (i) acetone and acetate;

4946 (ii) amyl nitrite or amyl nitrate or their isomers;

- 4947 (iii) benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers;
4948 (iv) ethyl alcohol, ethyl nitrite, or ethyl nitrate;
4949 (v) ethylene dichloride;
4950 (vi) isobutyl alcohol;
4951 (vii) methyl alcohol;
4952 (viii) methyl ethyl ketone;
4953 (ix) n-propyl alcohol;
4954 (x) pentachlorophenol;
4955 (xi) petroleum ether;
4956 (xii) propyl nitrite or propyl nitrate or their isomers;
4957 (xiii) toluene;
4958 (xiv) xylene; or
4959 (xv) another chemical substance capable of causing a condition of intoxication,
4960 inebriation, excitement, stupefaction, or the dulling of the brain or nervous system
4961 as a result of the inhalation of the fumes or vapors of such chemical substance.
4962 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
4963 (2) ~~[A person is guilty of]~~ Except as provided in Subsection (4), an actor commits abuse of
4964 psychotoxic chemical ~~[solvents if]~~ solvent if:
4965 (a) for the purpose of causing a condition of intoxication, inebriation, excitement,
4966 stupefaction, or the dulling of ~~[his]~~ the actor's brain or nervous system, ~~[he]~~ the actor
4967 intentionally:
4968 (i) smells or inhales the fumes of ~~[any]~~ a psychotoxic chemical solvent; or
4969 (ii) possesses, purchases, or attempts to possess or purchase ~~[any]~~ a psychotoxic
4970 chemical solvent; or
4971 (b) the ~~[person]~~ actor offers, sells, or provides a psychotoxic chemical solvent to another
4972 person, knowing that other person or a third party intends to possess or use that
4973 psychotoxic chemical solvent in violation of Subsection ~~[(1)(a)].~~ (2)(a).
4974 ~~[(2) This section does not apply to the prescribed use, distribution, or sale of those~~
4975 ~~substances for medical or dental purposes.]~~
4976 (3) ~~[Abuse of psychotoxic chemical solvents]~~ A violation of Subsection (2) is a class B
4977 misdemeanor.
4978 ~~[(4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or~~
4979 ~~other substance containing one or more of the following chemical compounds:~~
4980 ~~acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl~~

4981 alcohol, butyl nitrite, butyl nitrate, or their isomers, ethyl alcohol, ethyl nitrite or
 4982 ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl
 4983 ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl
 4984 nitrate or their isomers, toluene or xylene, or other chemical substance capable of
 4985 causing a condition of intoxication, inebriation, excitement, stupefaction, or the
 4986 dulling of the brain or nervous system as a result of the inhalation of the fumes or
 4987 vapors of such chemical substance.]

4988 (4) This section does not apply to:

4989 (a) the prescribed use, distribution, or sale of a psychotoxic chemical solvent for a
 4990 medical or dental purpose; or

4991 (b) [~~Nothing in this section shall be construed to include any~~] a controlled substance
 4992 regulated by the provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

4993 Section 125. Section ~~76-9-1111~~, which is renumbered from Section 76-10-107.5 is renumbered
 4994 and amended to read:

4995 ~~[76-10-107.5]~~ **76-9-1111 . Abuse of nitrous oxide.**

4996 (1)(a) As used in this section, "nitrous oxide" means:

4997 [~~(a)~~] (i) N₂O, a colorless gas or liquid that is also referred to as dinitrogen monoxide,
 4998 nitrogen oxide, or laughing gas; [~~and~~] or

4999 [~~(b)~~] (ii) any substance containing nitrous oxide.

5000 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

5001 (2) [~~A person is guilty of~~] Except as provided in Subsection (4), an actor commits abuse of
 5002 nitrous oxide [who] if the actor:

5003 (a) possesses nitrous oxide with the intent to breathe, inhale, or ingest [~~it~~] the nitrous
 5004 oxide for the purpose of:

5005 (i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or
 5006 dulling of the senses; or

5007 (ii) in any manner changing, distorting, or disturbing the audio, visual, or mental
 5008 processes;

5009 (b) knowingly [~~and~~] or intentionally is under the influence of nitrous oxide; or

5010 (c) offers, sells, or provides nitrous oxide to another person, knowing that other person
 5011 or a third party intends to possess or use the nitrous oxide in violation of Subsection
 5012 (2)(a) or (b).

5013 (3) A violation of Subsection (2) is a class A misdemeanor.

5014 [~~(3)~~] (4)(a) Subsection (2)(b) does not apply to any person who is under the influence of

5015 nitrous oxide pursuant to an administration for the purpose of medical, surgical, or
 5016 dental care by a person holding a license under state law that authorizes the
 5017 administration of nitrous oxide.

5018 [(4)] (b) Subsection (2)(c) does not apply to any person who:

5019 (i) administers nitrous oxide for the purpose of medical, surgical, or dental care; and

5020 (ii) [who] holds a license under state law that authorizes the administration of nitrous
 5021 oxide.

5022 [(5) A violation of this section is a class A misdemeanor.]

5023 Section 126. Section **76-9-1112**, which is renumbered from Section 76-10-111 is renumbered
 5024 and amended to read:

5025 **[76-10-111]76-9-1112 . Illegal provision of smokeless tobacco or electronic**
 5026 **cigarette product -- Exceptions.**

5027 [(1) The Legislature finds that:]

5028 [(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
 5029 use those products because research indicates that they may cause mouth or oral cancers;]

5030 [(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;]

5031 [(c) the use of electronic cigarette products may lead to unhealthy behavior such as the use
 5032 of tobacco products; and]

5033 [(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the
 5034 interest of the health of the citizens of this state.]

5035 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

5036 (2)[(a)] Except as provided in Subsection [(3), it is unlawful for] (4), an actor commits
 5037 illegal provision of smokeless tobacco or electronic cigarette product if the actor:

5038 (a) is a manufacturer, wholesaler, and retailer [to:] ; and

5039 (b)(i) [give or distribute-] gives or distributes without charge [any-]smokeless
 5040 tobacco, chewing tobacco, or an electronic cigarette product in this state;

5041 (ii) [sell, offer for sale, or furnish any] sells, offers for sale, or furnishes an electronic
 5042 cigarette product at less than the cost, including the amount of any applicable tax,
 5043 of the product to the manufacturer, wholesaler, or retailer; or

5044 (iii) [give, distribute, sell, offer for sale, or furnish any] gives, distributes, sells, offers
 5045 for sale, or furnishes an electronic cigarette product for free or at a lower price
 5046 because the recipient of the electronic cigarette product makes another purchase.

5047 (3) A violation of Subsection (2) is:

5048 (a) a class C misdemeanor on the first offense; or

- 5049 (b) a class B misdemeanor on a subsequent offense.
- 5050 ~~[(b)]~~ (4)(a) The price that a manufacturer, wholesaler, or retailer may charge under
- 5051 Subsection ~~[(2)(a)(ii)]~~ (2)(b)(ii) does not include a discount for:
- 5052 (i) a physical manufacturer coupon:
- 5053 (A) that is surrendered to the wholesaler or retailer at the time of sale; and
- 5054 (B) for which the manufacturer will reimburse the wholesaler or the retailer for
- 5055 the full amount of the discount described in the manufacturer coupon and
- 5056 provided to the purchaser;
- 5057 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for
- 5058 the full amount of the rebate provided to the purchaser; or
- 5059 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the
- 5060 retailer for the full amount of the promotional fund provided to the purchaser.
- 5061 ~~[(e) Any individual who violates this section is guilty of:]~~
- 5062 ~~[(i) a class C misdemeanor for the first offense; and]~~
- 5063 ~~[(ii) a class B misdemeanor for any subsequent offense.]~~

5064 ~~[(3)]~~ (b) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be

5065 distributed to adults without charge at professional conventions where the general

5066 public is excluded.

5067 (5) The Legislature finds that:

- 5068 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
- 5069 use those products because research indicates that they may cause mouth or oral
- 5070 cancers;
- 5071 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;
- 5072 (c) the use of electronic cigarette products may lead to unhealthy behavior such as the
- 5073 use of tobacco products; and
- 5074 (d) it is necessary to restrict the gift of the products described in this section in the
- 5075 interest of the health of the citizens of this state.

5076 Section 127. Section **76-9-1113**, which is renumbered from Section 76-10-112 is renumbered

5077 and amended to read:

5078 ~~[76-10-112]~~ **76-9-1113 . Illegal distribution of a tobacco product -- Exceptions.**

- 5079 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 5080 (2) Except as provided in Subsection ~~[(3), it is unlawful for-]~~ (4), an actor commits illegal
- 5081 distribution of a tobacco product if the actor:
- 5082 (a) is a manufacturer, wholesaler, or retailer; and

5083 (b) ~~[to give or distribute]~~ gives or distributes a tobacco product in this state without
5084 charge.

5085 ~~[(2)] (3) [An individual who violates this subsection is guilty of]~~ A violation of Subsection
5086 (2) is:

5087 (a) a class C misdemeanor ~~[for]~~ on the first offense; ~~[and]~~ or

5088 (b) a class B misdemeanor ~~[for any]~~ on a subsequent offense.

5089 ~~[(3)] (4)(a)~~ A tobacco product may be distributed to an adult without charge at a
5090 professional convention where the general public is excluded.

5091 ~~[(4)] (b)~~ The prohibition described in Subsection ~~[(1)-]~~ (2) does not apply to a tobacco
5092 retailer, a manufacturer, or a distributor that gives a tobacco product to an individual
5093 who is 21 years old or older upon the individual's purchase of a tobacco product.

5094 Section 128. Section **76-9-1114**, which is renumbered from Section 76-10-113 is renumbered
5095 and amended to read:

5096 **[76-10-113]76-9-1114 . Illegal distribution of a flavored electronic cigarette**
5097 **product.**

5098 (1) ~~[Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a retail tobacco~~
5099 ~~specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic~~
5100 ~~cigarette product to any person.]~~ Terms defined in Sections 76-1-101.5 and 76-9-1101
5101 apply to this section.

5102 (2) ~~[Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a~~
5103 ~~person to give, distribute, sell, offer for sale, or furnish]~~ An actor commits illegal
5104 distribution of a flavored electronic cigarette product if the actor gives, distributes, sells,
5105 offers for sale, or furnishes to any person a flavored electronic cigarette product.

5106 ~~[(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer~~
5107 ~~for sale, or furnish to any person an electronic cigarette product that is not a premarket~~
5108 ~~authorized or pending electronic cigarette product.]~~

5109 ~~[(4)] (3) [An individual who violates this section is guilty of]~~ A violation of Subsection (2) is:

5110 (a) a class C misdemeanor ~~[for]~~ on the first offense; ~~[and]~~ or

5111 (b) a class B misdemeanor ~~[for any]~~ on a subsequent offense.

5112 Section 129. Section **76-9-1115** is enacted to read:

5113 **76-9-1115 . Illegal distribution of an electronic cigarette product without federal**
5114 **authorization.**

5115 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

5116 (2) An actor commits illegal distribution of an electronic cigarette product without federal

5117 authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any
5118 person an electronic cigarette product that is not a premarket authorized or pending
5119 electronic cigarette product.

5120 (3) A violation of Subsection (2) is:

5121 (a) a class C misdemeanor on the first offense; or

5122 (b) a class B misdemeanor on a subsequent offense.

5123 Section 130. Section **76-9-1116**, which is renumbered from Section 76-10-114 is renumbered
5124 and amended to read:

5125 **[76-10-114]76-9-1116 . Unlawful sale of a tobacco product, electronic cigarette**
5126 **product, or nicotine product.**

5127 (1)(a) As used in this section:

5128 [(a)] (i) "Compensatory service" means service or unpaid work performed by an
5129 employee, in lieu of the payment of a fine or imprisonment.

5130 [(b)] (ii) "Employee" means an employee or an owner of a tobacco retailer.

5131 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

5132 (2) [It is unlawful for an employee to knowingly or intentionally sell or give-] An actor
5133 commits unlawful sale of a tobacco product, electronic cigarette product, or nicotine
5134 product if the actor:

5135 (a) is an employee; and

5136 (b) intentionally or knowingly sells or gives a tobacco product, an electronic cigarette
5137 product, or a nicotine product in the course of business to an individual [who is under]
5138 younger than 21 years old.

5139 (3) [An employee who violates this section-] A violation of Subsection (2) is:

5140 (a) on a first violation:

5141 (i) [guilty of-]an infraction; and

5142 (ii) subject to:

5143 (A) a fine not exceeding \$1,000; or

5144 (B) compensatory service; or

5145 (b) on [any] a subsequent violation:

5146 (i) [guilty of-]a class C misdemeanor; and

5147 (ii) subject to:

5148 (A) a fine not exceeding \$2,000; or

5149 (B) compensatory service.

5150 Section 131. Section **76-9-1117**, which is renumbered from Section 76-10-115 is renumbered

5151 and amended to read:

5152 ~~[76-10-115]~~76-9-1117 . **Unlawful transfer of proof of age.**

5153 (1)(a) As used in this section:

5154 ~~[(a)]~~ (i) "Proof of age" means:

5155 ~~[(i)]~~ (A) a valid identification card issued under Title 53, Chapter 3, Part 8,
5156 Identification Card Act;

5157 ~~[(ii)]~~ (B) a valid identification that:

5158 ~~[(A)]~~ (I) is substantially similar to an identification card issued under Title 53,
5159 Chapter 3, Part 8, Identification Card Act;

5160 ~~[(B)]~~ (II) is issued in accordance with the laws of a state other than Utah in
5161 which the identification is issued;

5162 ~~[(C)]~~ (III) includes date of birth; and

5163 ~~[(D)]~~ (IV) has a picture affixed;

5164 ~~[(iii)]~~ (C) a valid driver license certificate that is issued under Title 53, Chapter 3,
5165 Uniform Driver License Act, or in accordance with the laws of the state in
5166 which the valid driver license is issued;

5167 ~~[(iv)]~~ (D) a valid United States military identification card that:

5168 ~~[(A)]~~ (I) includes date of birth; and

5169 ~~[(B)]~~ (II) has a picture affixed; or

5170 ~~[(v)]~~ (E) a valid passport.

5171 ~~[(b)]~~ (ii) "Proof of age" does not include a driving privilege card issued in accordance
5172 with Section 53-3-207.

5173 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

5174 (2) ~~[An individual is guilty of a class B misdemeanor if the individual knowingly and~~
5175 ~~intentionally transfers that individual's] Except as provided in Subsection (4), an actor~~
5176 ~~commits unlawful transfer of proof of age if the actor intentionally or knowingly~~
5177 ~~transfers the actor's proof of age to another individual to aid that individual in:~~

5178 (a) purchasing a tobacco product, an electronic cigarette product, or a nicotine product;

5179 or

5180 (b) gaining admittance to any part of the premises of a retail tobacco specialty business.

5181 (3) A violation of Subsection (2) is a class B misdemeanor.

5182 ~~[(3) An individual is guilty of a class A misdemeanor if the individual knowingly and~~
5183 ~~intentionally uses proof of age containing false information with the intent to:]~~

5184 ~~[(a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or]~~

5185 ~~[(b) gain admittance to any part of the premises of a retail tobacco specialty business.]~~
 5186 (4) ~~[Subsections (2) and (3) do]~~ Subsection (2) does not apply to an individual who uses a
 5187 false identification in accordance with Subsection 77-39-101(4) at the request of a peace
 5188 officer.

5189 Section 132. Section **76-9-1118** is enacted to read:

5190 **76-9-1118 . Unlawful use of proof of age containing false information.**

5191 (1)(a) As used in this section, "proof of age" means the same as that term is defined in
 5192 Section 76-9-1117.

5193 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

5194 (2) An actor commits unlawful use of proof of age containing false information if the actor
 5195 intentionally or knowingly uses proof of age containing false information with the intent
 5196 to:

5197 (a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or

5198 (b) gain admittance to any part of the premises of a retail tobacco specialty business.

5199 (3) A violation of Subsection (2) is a class A misdemeanor.

5200 (4) Subsection (2) does not apply to an individual who uses a false identification in
 5201 accordance with Subsection 77-39-101(4) at the request of a peace officer.

5202 Section 133. Section **76-9-1119**, which is renumbered from Section 76-10-116 is renumbered
 5203 and amended to read:

5204 **[76-10-116]76-9-1119 . Ordinances, rules, and regulations.**

5205 (1) Except as provided in Subsection (2) or (3), an ordinance, rule, or regulation adopted by
 5206 a governing body of a political subdivision of the state or a state agency is superseded if:

5207 (a) the ordinance, rule, or regulation affects:

5208 (i) the minimum age of sale for a tobacco product, an electronic cigarette product, or
 5209 tobacco paraphernalia;

5210 (ii) the provision or sale of a tobacco product, an electronic cigarette product, or
 5211 tobacco paraphernalia;

5212 (iii) the flavoring of a tobacco product or an electronic cigarette product;

5213 (iv) the purchase or possession of a tobacco product, an electronic cigarette product,
 5214 or tobacco paraphernalia; or

5215 (v) the placement or display of a tobacco product or an electronic cigarette product;
 5216 and

5217 (b) the ordinance, rule, or regulation is not essentially identical to ~~[any]~~ a state statute
 5218 relating to the applicable subject described in Subsection (1)(a).

5219 (2) A governing body of a political subdivision of the state or a state agency may adopt an
 5220 ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v)
 5221 if the governing body of a political subdivision of the state or a state agency is
 5222 authorized by statute to adopt the ordinance, rule, or regulation.

5223 (3) Subsection (1) does not apply to the adoption or enforcement of a land use ordinance by
 5224 a municipal or county government.

5225 Section 134. Section **76-9-1201** is enacted to read:

5226

Part 12. Offenses Concerning Water, Shafts, and Wells

5227 **76-9-1201 . Definitions.**

5228 Reserved.

5229 Section 135. Section **76-9-1202**, which is renumbered from Section 76-10-201 is renumbered
 5230 and amended to read:

5231 **[76-10-201]76-9-1202 . Unlawful interference with water flow.**

5232

5233 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

5234 (2) ~~[Every person who knowingly or]~~ An actor commits unlawful interference with water
 5235 flow if the actor intentionally or knowingly interferes with or alters the flow of water in
 5236 any stream, ditch, or lateral while under the control or management of any water
 5237 commissioner[is guilty of a crime punishable under Section 73-2-27].

5238 (3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

5239 Section 136. Section **76-9-1203**, which is renumbered from Section 76-10-202 is renumbered
 5240 and amended to read:

5241 **[76-10-202]76-9-1203 . Unlawful taking of water or damaging a water facility.**

5242 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

5243 (2) ~~[No person may, in-]~~ An actor commits unlawful taking of water or damaging a water
 5244 facility if the actor, in violation of [any] a right of [any other] another person, [knowingly
 5245 or]intentionally or knowingly:

5246 (a) ~~[turn or use-]~~ turns on or uses the water, or [any] a part thereof, of [any] a canal, ditch,
 5247 pipeline, or reservoir, except at a time when the use of the water has been duly
 5248 distributed to the [person] actor;

5249 (b) ~~[use any-]~~ uses a greater quantity of the water than has been duly distributed to [him]
 5250 the actor;

5251 (c) in any way ~~[change]~~ changes the flow of water when lawfully distributed for

5252 irrigation or other useful purposes, except when duly authorized to make the change;
5253 or

5254 (d) ~~[break or injure any]~~ breaks or injures a dam, canal, pipeline, watergate, ditch, or
5255 other means of diverting or conveying water for irrigation or other useful purposes.

5256 (3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

5257 ~~[(2)]~~ (4) Subsection ~~[(1)-]~~ (2) applies to violations of ~~[any]~~ a right to the use of water,
5258 including:

5259 (a) a water right; or

5260 (b) authorization of a person's use of water by:

5261 (i) a water company, as defined in Subsection 73-3-3.5(1)(b); or

5262 (ii) an entity having a valid water right under Utah law.

5263 ~~[(3) Any person who violates this section is guilty of a crime punishable under Section~~
5264 ~~73-2-27.]~~

5265 Section 137. Section **76-9-1204**, which is renumbered from Section 76-10-203 is renumbered
5266 and amended to read:

5267 **~~[76-10-203]~~76-9-1204 . Unlawful obstruction of watergates.**

5268 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

5269 (2) ~~[Every person who-]~~ An actor commits unlawful obstruction of watergates if the
5270 actor:

5271 (a) rafts or floats logs, timber, or wood down any river or stream; and

5272 (b) allows the logs, timber, or wood described in Subsection (2)(a) to accumulate at or

5273 obstruct the watergates owned by ~~[any]~~ a person or irrigation company taking or

5274 diverting the water of the river or stream for irrigation or manufacturing purposes~~[is~~

5275 ~~guilty of a crime punishable under Section 73-2-27].~~

5276 (3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

5277 Section 138. Section **76-9-1205**, which is renumbered from Section 76-10-204 is renumbered
5278 and amended to read:

5279 **~~[76-10-204]~~76-9-1205 . Unlawful damage to a bridge, dam, canal, or other**
5280 **water-related structure.**

5281 ~~[(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly~~
5282 ~~commits an offense under Subsection (2) that does not amount to a violation of~~
5283 ~~Subsection 76-6-106(2)(a)(ii) or Section 76-6-106.3.]~~

5284 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

5285 (2) Except as provided in Subsection (4), an actor commits unlawful damage to a bridge,

5286 dam, canal, or other water-related structure if the actor intentionally, knowingly, or
 5287 recklessly:

5288 [(2) ~~Offenses referred to in Subsection (1) are when a person:~~]

5289 (a) cuts, breaks, damages, or destroys [~~any~~] a bridge, dam, canal, flume, aqueduct, levee,
 5290 embankment, reservoir, or other structure erected:

5291 (i) [~~-~~] to create hydraulic power[~~-~~];

5292 (ii) to drain or reclaim [~~any swamp and overflowed~~] a swamp, overflowed land, or
 5293 marsh land[~~-~~]; or

5294 (iii) to conduct water for mining, manufacturing, reclamation, or agricultural
 5295 purposes, or for the supply of the inhabitants of any city or town;

5296 (b) makes or causes to be made [~~any~~] an aperture in [~~any~~] a dam, canal, flume, aqueduct,
 5297 reservoir, embankment, levee, or similar structure with intent to injure or destroy [it]
 5298 the dam, canal, flume, aqueduct, reservoir, embankment, levee, or similar structure; or

5299 (c) draws up, cuts, or injures [~~any piles~~] a pile fixed in the ground and used for securing [
 5300 any] a lake or river bank or [~~walls~~] wall or [~~any~~] a dock, quay, jetty, or lock.

5301 (3) A violation of Subsection (2) is a third degree felony.

5302 (4) Subsection (2) applies to conduct that does not amount to a violation of Subsection
 5303 76-6-106(2)(a)(ii) or Section 76-6-106.3.

5304 Section 139. Section **76-9-1206**, which is renumbered from Section 76-10-2601 is renumbered
 5305 and amended to read:

5306 **[76-10-2601]76-9-1206 . Unlawful failure to fence a shaft or well.**

5307 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

5308 (2) [~~Any person who~~] An actor commits unlawful failure to fence a shaft or well if the actor:

5309 (a) has sunk or sinks a shaft or well on the public domain for any purpose[~~shall enclose~~
 5310 it with a substantial curb or fence, which shall be at least 4-1/2 feet high.] ; and

5311 (b) fails to enclose the shaft or well with a substantial curb or fence that is at least 4.5
 5312 feet high.

5313 [(2)] (3) [~~Any person violating this section is guilty of~~] A violation of Subsection (2) is a
 5314 class B misdemeanor.

5315 Section 140. Section **76-9-1301**, which is renumbered from Section 76-10-801 is renumbered
 5316 and amended to read:

5317

Part 13. Criminal Nuisance

5318 **[76-10-801]76-9-1301 . Definitions.**

- 5319 ~~[(1) A nuisance is any]~~ As used in this part:
- 5320 (1) "Nuisance" means an item, thing, manner, or condition [whatsoever] that:
- 5321 (a) ~~[-]is dangerous to human life or health; or~~
- 5322 (b) ~~renders soil, air, water, or food impure or unwholesome.~~
- 5323 (2)(a) "Public nuisance" means unlawfully committing an act or omitting to perform a
- 5324 duty, which act or duty:
- 5325 (i) annoys, injures, or endangers the comfort, repose, health, or safety of three or
- 5326 more persons, regardless of the extent to which the annoyance, injury, or
- 5327 endangerment inflicted on the persons is unequal;
- 5328 (ii) offends public decency;
- 5329 (iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous
- 5330 for passage, a lake, stream, canal, or basin, or a public park, square, street, or
- 5331 highway;
- 5332 (iv) is a nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and
- 5333 drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution
- 5334 -- Weapons -- Abatement by eviction; or
- 5335 (v) renders three or more persons insecure in life or the use of property, regardless of
- 5336 the extent to which the effect inflicted on the persons is unequal.
- 5337 (b) "Public nuisance" is presumed to not include:
- 5338 (i) activities conducted in the normal and ordinary course of agricultural operations,
- 5339 as defined in Section 4-44-102, and conducted in accordance with sound
- 5340 agricultural practices, with the presumption that agricultural operations
- 5341 undertaken in conformity with federal, state, and local laws and regulations,
- 5342 including zoning ordinances, are operating within sound agricultural practices; or
- 5343 (ii) activities conducted in the normal and ordinary course of critical infrastructure
- 5344 materials operations, as defined in Section 78B-6-1101, and conducted in
- 5345 accordance with sound critical infrastructure materials practices, with the
- 5346 presumption that critical infrastructure materials operations undertaken in
- 5347 conformity with federal, state, and local laws and regulations, including zoning
- 5348 ordinances, are operating within sound critical infrastructure materials operations.
- 5349 ~~[(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or~~
- 5350 ~~contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a~~
- 5351 ~~class B misdemeanor.]~~
- 5352 Section 141. Section **76-9-1302** is enacted to read:

5353 **76-9-1302 . Creating, supporting, or retaining a nuisance.**5354 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.5355 (2) An actor commits creating, supporting, or retaining a nuisance if the actor:5356 (a) is an owner, agent, or occupant; and5357 (b)(i) creates, aids in creating, or contributes to a nuisance; or5358 (ii) supports, continues, or retains a nuisance.5359 (3) A violation of Subsection (2) is a class B misdemeanor.5360 Section 142. Section **76-9-1303**, which is renumbered from Section 76-10-802 is renumbered
5361 and amended to read:5362 **~~[76-10-802]~~76-9-1303 . Befouling waters.**5363 ~~[A person is guilty of a class B misdemeanor if he:]~~5364 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.5365 (2) An actor commits the offense of befouling waters if the actor:5366 (a) ~~[Constructs-]~~ constructs or maintains a corral, sheep pen, goat pen, stable, pigpen,
5367 chicken coop, or other offensive yard or outhouse ~~[where]~~ from which the waste or
5368 drainage ~~[therefrom shall flow]~~ will flow directly into the waters of any stream, well,
5369 or spring of water used for domestic purposes; ~~[or]~~5370 ~~[(2)]~~ (b) ~~[Deposits]~~ deposits, piles, unloads, or leaves ~~[any]~~ a manure heap, offensive
5371 rubbish, or the carcass of ~~[any]~~ a dead animal ~~[where]~~ from which the waste or
5372 drainage ~~[therefrom]~~ will flow directly into the waters of any stream, well, or spring
5373 of water used for domestic purposes; ~~[or]~~5374 ~~[(3)]~~ (c) ~~[Dips-]~~ dips or washes sheep in ~~[any]~~ a stream, or constructs, maintains, or uses [
5375 ~~any]~~ a pool or dipping vat for dipping or washing sheep in such close proximity to [
5376 ~~any]~~ a stream used for domestic purposes by the inhabitants of any city or town ~~[for~~
5377 ~~domestic purposes]~~ so as to make the waters ~~[thereof]~~ of the stream impure or
5378 unwholesome; ~~[or]~~5379 ~~[(4)]~~ (d) ~~[Constructs-]~~ constructs or maintains ~~[any]~~ a corral, yard, or vat to be used for the
5380 purpose of shearing or dipping sheep within 12 miles of any city or town, ~~[where]~~
5381 from which the refuse or filth from the corral or yard would naturally find its way
5382 into any stream of water used for domestic purposes by the inhabitants of any city or
5383 town~~[for domestic purposes]~~; or5384 ~~[(5)]~~ (e) ~~[Establishes-]~~ establishes and maintains ~~[any]~~ a corral, camp, or bedding place for
5385 the purpose of herding, holding, or keeping ~~[any]~~ cattle, horses, sheep, goats, or hogs
5386 within seven miles of any city or town, ~~[where]~~ from which the refuse or filth from

5387 the corral, camp, or bedding place will naturally find its way into any stream of water
5388 used for domestic purposes by the inhabitants of any city or town[~~for domestic~~
5389 ~~purposes~~].

5390 (3) A violation of Subsection (2) is a class B misdemeanor.

5391 Section 143. Section **76-9-1304**, which is renumbered from Section 76-10-805 is renumbered
5392 and amended to read:

5393 **[76-10-805]76-9-1304 . Unlawful disposal of carcass or offal.**

5394 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.[Every
5395 ~~person who~~]

5396 (2) An actor commits unlawful disposal of carcass or offal if the actor:

5397 (a) puts the carcass of [any] a dead animal, or the offal from [any] a slaughter pen, corral,
5398 or butcher shop, into [any] a river, creek, pond, street, alley, or public highway, or
5399 road in common use[~~, or who attempts to destroy it by fire, within one-fourth of a~~
5400 ~~mile of any city or town is guilty of a class B misdemeanor.~~] ; or

5401 (b) attempts to destroy by fire the carcass of a dead animal, or the offal from a slaughter
5402 pen, corral, or butcher shop, within one-fourth of a mile of a city or town.

5403 (3) A violation of Subsection (2) is a class B misdemeanor.

5404 Section 144. Section **76-9-1305**, which is renumbered from Section 76-10-804 is renumbered
5405 and amended to read:

5406 **[76-10-804]76-9-1305 . Maintaining, committing, or failing to remove a public**
5407 **nuisance.**

5408 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

5409 (2) [~~Every person who~~] An actor commits maintaining, committing, or failing to
5410 remove a public nuisance if the actor:

5411 (a) maintains or commits [any] a public nuisance, the punishment for which is not
5412 otherwise prescribed[~~, or who~~] ; or

5413 (b) [~~]~~willfully omits to perform [any] a legal duty relating to the removal of a public
5414 nuisance[~~, is guilty of~~] .

5415 (3) A violation of Subsection (2) is a class B misdemeanor.

5416 Section 145. Section **76-9-1306**, which is renumbered from Section 76-10-806 is renumbered
5417 and amended to read:

5418 **[76-10-806]76-9-1306 . Action for abatement of public nuisance.**

5419 (1)(a) As used in this section:

5420 (i) "Distribute" means the same as that term is defined in Section 76-10-1201 [need to

5421 update cite to reflect renumbering].

5422 (ii) "Exhibit" means the same as that term is defined in Section 76-10-1201 [need to
5423 update cite to reflect renumbering].

5424 (iii) "Material" means the same as that term is defined in Section 76-10-1201 [need to
5425 update cite to reflect renumbering].

5426 (b) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

5427 (2) The county attorney of the county [where] in which the public nuisance exists, upon
5428 direction of the county [-]executive, or city attorney of the city [where] in which the
5429 public nuisance exists, upon direction of the board of city commissioners, or attorney
5430 general, upon direction of the governor, or any of the above attorneys without the
5431 necessity of direction, is empowered to institute an action in the name of the county,
5432 city, or state, as the case may be, to abate a public nuisance.

5433 (3) The action shall be brought in the [district] court of the district [where] in which the
5434 public nuisance exists and shall be in the form prescribed by the Rules of Civil
5435 Procedure of the State of Utah for injunctions, but none of the above attorneys shall be
5436 required to execute a bond with respect to the action.

5437 (4) If the action is instituted, however, to abate the distribution or exhibition of material
5438 alleged to offend public decency, the action shall be in the form prescribed by the Rules
5439 of Civil Procedure of Utah for injunctions, but no restraining order or injunction shall
5440 issue except upon notice to the person sought to be enjoined; and that person shall be
5441 entitled to a trial of the issues commencing within three days after filing of an answer to
5442 the complaint and a decision shall be rendered by the court within two days after the
5443 conclusion of the trial. [~~As used in this part, "distribute," "exhibit," and "material" mean~~
5444 ~~the same as provided in Section 76-10-1201.~~]

5445 Section 146. Section **76-9-1307**, which is renumbered from Section 76-10-808 is renumbered
5446 and amended to read:

5447 **[76-10-808]76-9-1307 . Relief granted for a public nuisance that offends public**
5448 **decency.**

5449 If the existence of a public nuisance [~~as defined by Subsection 76-10-803(1)(b)] that~~

5450 offends public decency is admitted or established, either in a civil or criminal
5451 proceeding, a judgment shall be entered [~~which~~] that shall:

5452 (1) permanently enjoin each defendant and any other person from further maintaining the
5453 public nuisance at the place complained of and each defendant from maintaining such
5454 public nuisance elsewhere;

5455 (2) direct the person enjoined to surrender to the sheriff of the county in which the action
5456 was brought any material in ~~[his]~~ the defendant's possession ~~[which]~~ that is subject to the
5457 injunction, and the sheriff shall seize and destroy this material; and

5458 (3) without proof of special injury, direct that an accounting be had and all money and other
5459 consideration paid as admission to view any motion picture film determined to constitute
5460 a public nuisance, or paid for any publication determined to constitute a public nuisance,
5461 in either case without deduction for expenses, be forfeited and paid into the general fund
5462 of the county ~~[where the]~~ in which the public nuisance was maintained.

5463 Section 147. Section **76-9-1308**, which is renumbered from Section 76-10-807 is renumbered
5464 and amended to read:

5465 **[76-10-807]76-9-1308 . Criminal violation of an order enjoining a public**
5466 **nuisance.**

5468 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

5469 (2) ~~[A person who]~~ An actor commits criminal violation of an order enjoining a public
5470 nuisance if the actor knowingly violates [any] a judgment or order abating or otherwise
5471 enjoining a public nuisance[as defined under Section 76-10-803 is guilty of a class B
5472 misdemeanor].

5473 (3) A violation of Subsection (2) is a class B misdemeanor.

5474 Section 148. Section **76-9-1401**, which is renumbered from Section 76-10-1101 is renumbered
5475 and amended to read:

5476

Part 14. Gambling

5477 **[76-10-1101]76-9-1401 . Definitions.**

5478 As used in this part:

5479 (1)(a) "Amusement device" means a game that:

5480 (i) is activated by a coin, token, or other object of consideration or value; and

5481 (ii) does not provide the opportunity to:

5482 (A) enter into a sweepstakes, lottery, or other gambling event; or

5483 (B) receive any form of consideration or value, except an appropriate reward.

5484 (b) "Amusement device" includes:

5485 (i) a video game;

5486 (ii) a driving simulator;

5487 (iii) an electronic game;

5488 (iv) a claw machine;

- 5489 (v) a bowling game;
- 5490 (vi) a shuffleboard game;
- 5491 (vii) a skee-ball game;
- 5492 (viii) a pool table;
- 5493 (ix) a pinball machine;
- 5494 (x) a target machine; and
- 5495 (xi) a baseball machine.
- 5496 (2) "Amusement facility" means a facility that:
- 5497 (a) is operated primarily for the purpose of providing amusement or entertainment to
- 5498 customers;
- 5499 (b) is located on property that is open to customers for the purpose of providing
- 5500 customers with an opportunity to use an amusement device;
- 5501 (c) receives a substantial amount of the facility's revenue from the operation of
- 5502 amusement devices; and
- 5503 (d) does not provide an opportunity for, or a machine or device that enables, gambling or
- 5504 fringe gambling.
- 5505 (3)(a) "Appropriate reward" means a reward that:
- 5506 (i) an individual receives as a result of the individual's participation in or use of an
- 5507 amusement device; and
- 5508 (ii) provides:
- 5509 (A) full and adequate return for money, a token, or other consideration or value
- 5510 invested into the amusement device;
- 5511 (B) an immediate and unrecorded ability to replay a game featured on an
- 5512 amusement device that is not exchangeable for value;
- 5513 (C) a toy, novelty, or other non-monetary prize with a value of less than \$100 as a
- 5514 reward for playing; or
- 5515 (D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize
- 5516 at an amusement facility, or at any franchise or chain of the amusement
- 5517 facility, where the amusement device is located.
- 5518 (b) "Appropriate reward" does not include money, a gift certificate, a gift card, credit to
- 5519 be used in a retail store, or other form of monetary compensation or reward.
- 5520 (4) "Consumer" means the same as that term is defined in Section 76-10-1230.
- 5521 (5) "Enter or entry" means an act or process by which an individual becomes eligible to
- 5522 receive a prize offered for participation in any form of sweepstakes, game, or contest.

- 5523 (6)(a) "Fringe gambling" means any de facto form of gambling, lottery, fringe gaming
5524 device, or video gaming device that is given, conducted, or offered for use or sale by
5525 a business in exchange for anything of value or incident to the purchase of another
5526 good or service.
- 5527 (b) "Fringe gambling" does not include:
- 5528 (i) a promotional activity that is clearly ancillary to the primary activity of a business;
5529 or
5530 (ii) use of an amusement device or vending machine.
- 5531 (7)(a) "Fringe gaming device" means a mechanically, electrically, or electronically
5532 operated machine or device that:
- 5533 (i) is not an amusement device or a vending machine;
5534 (ii) is capable of displaying or otherwise presenting information on a screen or
5535 through any other mechanism; and
5536 (iii) provides the user with a card, token, credit, gift certificate, product, or
5537 opportunity to participate in a contest, game, gaming scheme, or sweepstakes with
5538 a potential return of money or other prize.
- 5539 (b) "Fringe gaming device" includes a machine or device similar to a machine or device
5540 described in Subsection (7)(a) that seeks to avoid application or circumvent this part
5541 or Utah Constitution, Article VI, Section 27[~~of the Utah Constitution~~].
- 5542 (8)(a) "Gambling" means risking anything of value for a return or risking anything of
5543 value upon the outcome of a contest, game, gaming scheme, or gaming device when
5544 the return or outcome:
- 5545 (i) is based on an element of chance, regardless of:
- 5546 (A) the existence of a preview or pre-reveal feature in the device, contest, or
5547 game; or
5548 (B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A)
5549 allows users to see individual or successive outcomes; and
5550 (ii) is in accord with an agreement or understanding that someone will receive
5551 anything of value in the event of a certain outcome.
- 5552 (b) "Gambling" includes a lottery.
- 5553 (c) "Gambling" does not include:
- 5554 (i) a lawful business transaction; or
5555 (ii) use of an amusement device.
- 5556 (9) "Gambling bet" means money, checks, credit, or any other representation of value.

5557 (10) "Gambling device or record" means anything specifically designed for use in gambling
5558 or fringe gambling or used primarily for gambling or fringe gambling.

5559 (11) "Gambling proceeds" means anything of value used in gambling or fringe gambling.

5560 [~~(12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or~~
5561 ~~gaming by use of:]~~

5562 [~~(a) the Internet; or]~~

5563 [~~(b) any mobile electronic device that allows access to data and information.]~~

5564 [(~~13~~)] (12) "Internet service provider" means a person engaged in the business of providing
5565 Internet access service, with the intent of making a profit, to consumers in Utah.

5566 [(~~14~~)] (13) "Lottery" means any scheme for the disposal or distribution of property by
5567 chance among persons who have paid or promised to pay any valuable consideration for
5568 the chance of obtaining property, or portion of it, or for any share or any interest in
5569 property, upon any agreement, understanding, or expectation that it is to be distributed
5570 or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by
5571 whatever name it is known.

5572 (14) "Online gambling" means gambling, fringe gambling, or gaming by use of:

5573 (a) the Internet; or

5574 (b) any mobile electronic device that allows access to data and information.

5575 (15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of value
5576 that may be or is transferred to an individual or placed on an account or other record
5577 with the intent to be transferred to an individual.

5578 (16) "Promotional activity that is clearly ancillary to the primary activity of a business"
5579 means a promotional activity that:

5580 (a) continues for a limited period of time;

5581 (b) is related to a good or service ordinarily provided by a business or the marketing or
5582 advertisement of a good or service ordinarily provided by the business;

5583 (c) does not require [~~a person~~] an individual to purchase a good or service from the
5584 business in consideration for participation or an advantage in the promotional activity
5585 or any other contest, game, gaming scheme, sweepstakes, or promotional activity;

5586 (d) promotes a good or service described in Subsection (16)(b) on terms that are
5587 commercially reasonable; and

5588 (e) does not, through use of a machine or device:

5589 (i) simulate a gambling environment;

5590 (ii) require the purchase of something of value to participate in the promotional

- 5591 activity that is not regularly used, purchased, or redeemed by users of the machine
5592 or device;
- 5593 (iii) provide a good or service described in Subsection (16)(b):
- 5594 (A) in a manner in which the person acquiring the good or service is unable to
5595 immediately acquire, redeem, or otherwise use the good or service after the
5596 time of purchase; or
- 5597 (B) at a value less than the full value of the good or service;
- 5598 (iv) appear or operate in a manner similar to a machine or device that is normally
5599 found in a casino for the purpose of gambling;
- 5600 (v) provide an entertaining display, designed to appeal to an individual's senses, that
5601 promotes actual or simulated game play that is similar in appearance or function
5602 to gambling, including:
- 5603 (A) a video playing card game, including a video poker game;
- 5604 (B) a video bingo game;
- 5605 (C) a video craps game;
- 5606 (D) a video keno game;
- 5607 (E) a video lotto game;
- 5608 (F) an 8-liner machine;
- 5609 (G) a Pot O' Gold game;
- 5610 (H) a video game involving a random or chance matching of pictures, words,
5611 numbers, or symbols; or
- 5612 (I) a video game that reveals a prize as the game is played; or
- 5613 (vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming
5614 scheme, or sweepstakes in an attempt to circumvent the requirements of this part
5615 or Article VI, Section 27, of the Utah Constitution.
- 5616 (17) "Skill-based game" means a game, played on a machine or device, the outcome of
5617 which is based, in whole or in part, on the skill of the player, regardless of whether a
5618 degree of chance is involved.
- 5619 (18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other
5620 promotion:
- 5621 (a) that an individual may enter with or without payment of any consideration;
- 5622 (b) that qualifies the person to win a prize; and
- 5623 (c) the result of which is based on chance.
- 5624 (19) "Vending machine" means a device:

- 5625 (a) that dispenses merchandise in exchange for money or any other item of value;
 5626 (b) that provides full and adequate return of the value deposited;
 5627 (c) through which the return of value is not conditioned on an element of chance or skill;
 5628 and
 5629 (d)(i) does not include a promotional activity; or
 5630 (ii) includes a promotional activity that is clearly ancillary to the primary activity of a
 5631 business.

5632 (20) "Video gaming device" means a device that includes all of the following:

- 5633 (a) a video display and computer mechanism for playing a game;
 5634 (b) the length of play of any single game is not substantially affected by the skill,
 5635 knowledge, or dexterity of the player;
 5636 (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens,
 5637 games, or credits accumulated or remaining;
 5638 (d) a play option that permits a player to spend or risk varying amounts of money,
 5639 tokens, or credits during a single game, in which the spending or risking of a greater
 5640 amount of money, tokens, or credits:
 5641 (i) does not significantly extend the length of play time of any single game; and
 5642 (ii) provides for a chance of greater return of credits, games, or money; and
 5643 (e) an operating mechanism that, in order to function, requires inserting money, tokens,
 5644 or other valuable consideration other than entering the user's name, birthdate, or
 5645 contact information.

5646 Section 149. Section **76-9-1402**, which is renumbered from Section 76-10-1102 is renumbered
 5647 and amended to read:

5648 **[76-10-1102]76-9-1402 . Participating in gambling.**

5649 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

5650 (2) [A person is guilty of] An actor commits participating in gambling if the [person:]

5651 [(a)] actor participates in:

5652 [(a)] [-]gambling[-or] ;

5653 [(b)] [-]fringe gambling[,-including any Internet or-] ; or

5654 [(c)] online gambling[;] .

5655 [(b) knowingly permits gambling or fringe gambling to be played, conducted, or dealt
 5656 upon or in any real or personal property owned, rented, or under the control of the
 5657 actor, whether in whole or in part; or]

5658 [(e) knowingly allows the use of any video gaming device that is:]

- 5659 [(i) in any business establishment or public place; and]
- 5660 [(ii) accessible for use by any person within the establishment or public place.]
- 5661 [(2) Gambling is a class B misdemeanor, except that any person who is convicted two or
- 5662 more times under this section is guilty of a class A misdemeanor.]
- 5663 [(3)(a) A person is guilty of a third degree felony who intentionally provides or offers to
- 5664 provide any form of Internet or online gambling to any person in this state.]
- 5665 [(b) Subsection (3)(a) does not apply to an Internet service provider, a hosting company as
- 5666 defined in Section 76-10-1230, a provider of public telecommunications services as
- 5667 defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that
- 5668 the Internet service provider, hosting company, Internet advertising service, or provider
- 5669 of public telecommunications services:]
- 5670 [(i) transmits, routes, or provides connections for material without selecting the material; or]
- 5671 [(ii) stores or delivers the material at the direction of a user.]
- 5672 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
- 5673 misdemeanor.
- 5674 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
- 5675 been convicted of a violation of Subsection (2).
- 5676 (4) If ~~[any]~~ federal law authorizes ~~[Internet]~~ online gambling in the states of the United
- 5677 States and ~~[that federal law]~~ provides that individual states may opt out of ~~[Internet]~~
- 5678 online gambling, this state shall opt out of ~~[Internet]~~ online gambling in the manner
- 5679 provided by federal law and within the time frame provided by that law.
- 5680 (5) Regardless of whether a federal law is enacted that authorizes ~~[Internet]~~ online gambling
- 5681 in the states of the United States, this section ~~[aets]~~ and Section 76-9-1404 act as this
- 5682 state's prohibition of ~~[any]~~ gambling, ~~[including Internet]~~ fringe gambling, or online
- 5683 gambling, in this state.
- 5684 Section 150. Section **76-9-1403** is enacted to read:
- 5685 **76-9-1403 . Permitting gambling.**
- 5686 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 5687 (2) An actor commits permitting gambling if the actor knowingly:
- 5688 (a) permits gambling or fringe gambling to be played, conducted, or dealt upon or in real
- 5689 or personal property owned, rented, or under the control of the actor, whether in
- 5690 whole or in part; or
- 5691 (b) allows the use of a video gaming device that is:
- 5692 (i) in a business establishment or public place; and

5693 (ii) accessible for use by an individual within the establishment or public place.

5694 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
5695 misdemeanor.

5696 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
5697 been convicted of a violation of Subsection (2).

5698 Section 151. Section **76-9-1404** is enacted to read:

5699 **76-9-1404 . Online gambling promotion.**

5700 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

5701 (2) An actor commits online gambling promotion if the actor intentionally provides or
5702 offers to provide a form of online gambling to an individual in this state.

5703 (3) A violation of Subsection (2) is a third degree felony.

5704 (4) This section does not apply to an Internet service provider, a hosting company as
5705 defined in Section 76-10-1230, a provider of public telecommunications services as
5706 defined in Section 54-8b-2, or an Internet advertising service that:

5707 (a) transmits, routes, or provides connections for material without selecting the material;

5708 or

5709 (b) stores or delivers the material at the direction of a user.

5710 Section 152. Section **76-9-1405**, which is renumbered from Section 76-10-1104 is renumbered
5711 and amended to read:

5712 **[76-10-1104] 76-9-1405 . General gambling promotion.**

5713 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

5714 [(1)] (2) [A person is guilty of-] An actor commits general gambling promotion if the [person]
5715 actor:

5716 (a) [-]derives, or intends to derive, an economic benefit other than personal winnings
5717 from gambling or fringe gambling; and[;]

5718 [(a)] (b)(i) [the person-]induces or aids another individual to engage in gambling or
5719 fringe gambling; or

5720 [(b)] (ii) [the person-]knowingly invests in, finances, owns, controls, supervises,
5721 manages, or participates in [any-]gambling or fringe gambling.

5722 [(2)] (3)(a) [Gambling promotion-] Except as provided in Subsection (3)(b), a violation
5723 of Subsection (2) is a class A misdemeanor[;] .

5724 (b) [-except that any person who is twice convicted under this section is guilty of] A
5725 violation of Subsection (2) is a third degree felony if the actor has previously been
5726 convicted of a violation of Subsection (2).

5727 Section 153. Section **76-9-1406**, which is renumbered from Section 76-10-1103 is renumbered
5728 and amended to read:

5729 **[76-10-1103]76-9-1406 . Gambling fraud.**

5730 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

5731 ~~[(1)]~~ (2) ~~[A person is guilty of]~~ An actor commits gambling fraud if the [person] actor:

5732 (a) ~~[-]participates in gambling or fringe gambling;~~

5733 (b) ~~[-and-]wins or acquires [to himself or herself or] gambling proceeds for the actor or~~
5734 ~~another [any gambling proceeds] individual; and~~

5735 (c) ~~[-when the person] knows the [person] actor has a lesser risk of losing or greater~~
5736 ~~chance of winning than one or more of the other participants, and the risk is not~~
5737 ~~known to all the other participants.~~

5738 ~~[(2) A person convicted of gambling fraud is punished as in the case of theft of property of~~
5739 ~~like value.]~~

5740 (3) A violation of Subsection (2) is:

5741 (a) a second degree felony if the value of what the actor wins or acquires for the actor or
5742 another individual is or exceeds \$5,000;

5743 (b) a third degree felony if the value of what the actor wins or acquires for the actor or
5744 another individual is or exceeds \$1,500 but is less than \$5,000;

5745 (c) a class A misdemeanor if the value of what the actor wins or acquires for the actor or
5746 another individual is or exceeds \$500 but is less than \$1,500; or

5747 (d) a class B misdemeanor if the value of what the actor wins or acquires for the actor or
5748 another individual is less than \$500.

5749 Section 154. Section **76-9-1407**, which is renumbered from Section 76-10-1105 is renumbered
5750 and amended to read:

5751 **[76-10-1105]76-9-1407 . Possessing a gambling device or record.**

5752 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

5753 (2) ~~[A person is guilty of]~~ An actor commits possessing a gambling device or record if the [
5754 person] actor:

5755 (a) ~~[-]knowingly possesses [the] a gambling device or record; and~~

5756 (b) ~~[-with intent] intends to use the gambling device or record in gambling or fringe~~
5757 ~~gambling.~~

5758 ~~[(2)]~~ (3)(a) ~~[Possession of a gambling device or record]~~ Except as provided in

5759 Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor[;] .

5760 (b) ~~[-except that any person who is convicted two or more times under this section is~~

- 5761 ~~guilty of]~~ A violation of Subsection (2) is a third degree felony if the actor has
5762 previously been convicted of a violation of Subsection (2).
- 5763 Section 155. Section **76-9-1408**, which is renumbered from Section 76-10-1110 is renumbered
5764 and amended to read:
- 5765 **[76-10-1110]76-9-1408 . Deriving a benefit from a fringe gaming device.**
- 5766 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 5767 ~~[(1)] (2) [Notwithstanding any other provision in Title 76, Chapter 10, Offenses Against~~
5768 ~~Public Health, Safety, Welfare, and Morals, it is unlawful for any person to derive or~~
5769 ~~intend to derive an economic benefit from a fringe gaming device by]~~ An actor commits
5770 deriving a benefit from a fringe gaming device if the actor:
- 5771 (a) ~~[permitting]~~ permits a fringe gaming device to be located on or in ~~[any]~~real or
5772 personal property owned, rented, or under the control of the ~~[person]~~ actor;
- 5773 (b) ~~[allowing]~~ allows individual or public access or use of a fringe gaming device as part
5774 of ~~[any]~~ a business owned or operated by the ~~[person]~~ actor;
- 5775 (c) ~~[inducing or aiding a person]~~ induces or aids an individual to use a fringe gaming
5776 device;
- 5777 (d) ~~[investing in, financing, owning, controlling, or otherwise managing]~~ invests in,
5778 finances, owns, controls, or otherwise manages a fringe gaming device; or
- 5779 (e) ~~[possessing]~~ possesses a fringe gaming device with the intent to use or allow another
5780 individual to use the fringe gaming device.
- 5781 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
5782 misdemeanor.
- 5783 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
5784 convicted of a violation of Subsection (2).
- 5785 ~~[(2)] (4) [Subsection (1)-]~~ This section applies regardless of whether the fringe gaming
5786 device:
- 5787 (a) is server-based;
- 5788 (b) uses a simulated game terminal as a representation of a prize associated with the
5789 results of a sweepstakes entry;
- 5790 (c) uses a simulated game to influence or determine the result of the simulated game or
5791 the value of a prize;
- 5792 (d) selects the winner of a prize from a predetermined or finite pool of entries;
- 5793 (e) includes a pre-reveal feature;
- 5794 (f) predetermines a prize and reveals the prize at the time a sweepstakes entry result is

- 5795 revealed;
- 5796 (g) requires deposit of any money, coin, token, or gift certificate, or the use of a credit
- 5797 card, debit card, prepaid card, or any other method of payment to activate the device;
- 5798 (h) requires direct payment into the machine or device or remote activation of the device;
- 5799 (i) requires a purchase of a related product regardless of whether the product has
- 5800 legitimate value;
- 5801 (j) reveals the prize incrementally, regardless of whether a prize is awarded; or
- 5802 (k) includes a skill-based game.
- 5803 [~~(3) Each violation of this section is a separate offense.~~]
- 5804 [~~(4) A person who violates this section is guilty of:~~]
- 5805 [~~(a) a class A misdemeanor for the first offense; or~~]
- 5806 [~~(b) a third-degree felony for a subsequent offense.~~]
- 5807 Section 156. Section **76-9-1409**, which is renumbered from Section 76-10-1104.5 is renumbered
- 5808 and amended to read:
- 5809 **[~~76-10-1104.5~~76-9-1409 . Advertising or soliciting participation in a lottery.**
- 5810 (1)(a) [~~For purposes of~~] As used in this section[:],
- 5811 [(a) "Conspicuously"] "conspicuously printed" means printed in either larger or bolder
- 5812 type size than the adjacent and surrounding material so as to be clearly legible to [
- 5813 any person] an individual viewing the print.
- 5814 [(b) "Lottery" means the same as defined in Section ~~76-10-1101.~~]
- 5815 (b) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 5816 (2) [~~It is unlawful for any person to distribute or disseminate any~~] An actor commits
- 5817 advertising or soliciting participation in a lottery if the actor distributes or disseminates
- 5818 an advertisement or other written or printed material containing an advertisement or
- 5819 solicitation for participation in [any] a lottery.[~~unless the advertisement or solicitation~~
- 5820 ~~contains or includes the words "Void in Utah" conspicuously printed].~~
- 5821 (3)(a) [~~Any person who is convicted of violating~~] Except as provided in Subsection
- 5822 (3)(b), a violation of Subsection (2) [shall be fined the sum] is subject to a fine of
- 5823 \$2,500.
- 5824 (b) [~~Any person who is twice or more convicted under this section shall be fined the sum~~
- 5825 ~~of~~] A violation of Subsection (2) is subject to a fine of \$10,000 if the actor has
- 5826 previously been convicted of a violation of Subsection (2).
- 5827 (4) This section does not apply if the advertisement or solicitation contains or includes the
- 5828 words "Void in Utah" conspicuously printed in the advertisement or solicitation.

5829 Section 157. Section **76-9-1410**, which is renumbered from Section 76-10-1109 is renumbered
5830 and amended to read:

5831 **[76-10-1109]76-9-1410 . Obtaining a benefit from a confidence game.**

5832 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

5833 ~~[(1)]~~ (2) [Any person who] An actor commits obtaining a benefit from a confidence game if
5834 the actor knowingly obtains or attempts to obtain from [any other person any] another
5835 individual money or property by any means, instrument, or device commonly [called]
5836 referred to as a confidence game [shall be punished as in the case of theft of property of
5837 like value].

5838 (3) A violation of Subsection (2) is:

5839 (a) a second degree felony if the value of what the actor obtains is or exceeds \$5,000;

5840 (b) a third degree felony if the value of what the actor obtains is or exceeds \$1,500 but is
5841 less than \$5,000;

5842 (c) a class A misdemeanor if the value of what the actor obtains is or exceeds \$500 but is
5843 less than \$1,500; or

5844 (d) a class B misdemeanor if the value of what the actor obtains is less than \$500.

5845 ~~[(2)]~~ (4) [In every] An indictment, information, or complaint under this section[, it] shall be
5846 deemed and held to contain a sufficient description of the offense [to charge that the
5847 accused did, on, _____ (insert the date) unlawfully and knowingly obtain or attempt to
5848 obtain (as the case may be) from _____, (insert the name of the person or persons
5849 defrauded or attempted to be defrauded) his money or property (as the case may be) by
5850 means and by use of a confidence game] if the indictment, information, or complaint
5851 contains:

5852 (a) the date that the actor is accused of unlawfully and knowingly obtaining money or
5853 property from another individual;

5854 (b) the name of the individual from whom the actor is accused of obtaining money or
5855 property;

5856 (c) a description of the money or property obtained by the actor from the individual; and

5857 (d) a description of the confidence game the actor used to obtain the money or property
5858 from the individual.

5859 Section 158. Section **76-9-1411**, which is renumbered from Section 76-10-1112 is renumbered
5860 and amended to read:

5861 **[76-10-1112]76-9-1411 . Local control -- Seizure and disposition of gambling**
5862 **debts or proceeds.**

5863 (1) ~~[Nothing in this part preempts]~~ This part does not preempt or otherwise ~~[limits the~~
 5864 ~~authority of]~~ limit a county or municipality ~~[to enact]~~ from enacting a local ordinance
 5865 related to gambling or fringe gambling.

5866 ~~[(2) In accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, a~~
 5867 ~~county or municipality may seize gambling debts, gambling proceeds, or fringe gaming~~
 5868 ~~devices that are reasonably identifiable as being obtained or provided in violation of this~~
 5869 ~~part or a local ordinance.]~~

5870 (2) The following that are reasonably identifiable as having been used or obtained in
 5871 violation of this part or a local ordinance may be seized and are subject to forfeiture
 5872 proceedings in accordance with Title 77, Chapter 11a, Seizure of Property and
 5873 Contraband, or Title 77, Chapter 11b, Forfeiture of Seized Property:

5874 (a) gambling bets;

5875 (b) gambling proceeds;

5876 (c) gambling debts; and

5877 (d) fringe gaming devices.

5878 Section 159. Section **76-9-1412**, which is renumbered from Section 76-10-1113 is renumbered
 5879 and amended to read:

5880 ~~[76-10-1113]~~ **76-9-1412 . Cause of action.**

5881 (1) An individual who suffers an economic loss as a result of a fringe gaming device, video
 5882 gaming device, or gambling device or record may bring a cause of action against a
 5883 person who operates or receives revenue from the fringe gaming device, video gaming
 5884 device, or gambling device or record to recover damages, costs, and attorney fees.

5885 (2) An individual who brings suit under Subsection (1) may recover twice the amount of the
 5886 economic loss described in Subsection (1).

5887 Section 160. Section **76-9-1501**, which is renumbered from Section 76-10-1503 is renumbered
 5888 and amended to read:

5889 **Part 15. Criminal Offenses Relating to Bus Passenger Safety**

5890 ~~[76-10-1503]~~ **76-9-1501 . Definitions.**

5891 As used in this ~~[act]~~ part:

5892 (1)(a) "Bus" means ~~[any]~~ a passenger bus or coach or other motor vehicle having a
 5893 seating capacity of 15 or more passengers operated by a bus company for the purpose
 5894 of carrying passengers or cargo for hire.

5895 (b) ~~[and]~~ "Bus" includes a transit vehicle, as defined in Section 17B-2a-802, of a public

- 5896 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act.
- 5897 (2)(a) "Bus company" or "company" means ~~[any]~~ a person, group of persons, or
- 5898 corporation providing for-hire transportation to passengers or cargo by bus upon the
- 5899 highways in the state, including passengers and cargo in interstate or intrastate travel.
- 5900 ~~[These terms also include]~~
- 5901 (b) "Bus company" or "company" includes local public bodies, public transit districts,
- 5902 municipalities, public corporations, boards, and commissions established under the
- 5903 laws of the state providing transportation to passengers or cargo by bus upon the
- 5904 highways in the state, whether or not for hire.
- 5905 (3) "Charter" means a group of persons, pursuant to a common purpose and under a single
- 5906 contract, and at a fixed charge in accordance with a bus company's tariff, which has
- 5907 acquired the exclusive use of a bus to travel together to a specified destination or
- 5908 destinations.
- 5909 (4) "Passenger" means ~~[any]~~ a person transported or served by a bus company, including
- 5910 persons accompanying or meeting another being transported, any person shipping or
- 5911 receiving cargo, and any person purchasing a ticket or receiving a pass.
- 5912 (5)(a) "Terminal" means a bus station or depot or any other facility operated or leased
- 5913 by or operated on behalf of a bus company.
- 5914 (b) ~~[and]~~ "Terminal" includes:
- 5915 (i) a transit facility, as defined in Section 17B-2a-802, of a public transit district
- 5916 under Title 17B, Chapter 2a, Part 8, Public Transit District Act~~[- This term~~
- 5917 ~~includes-]~~ ; and
- 5918 (ii) a reasonable area immediately adjacent to:
- 5919 (A) ~~[any]~~ a designated stop along the route traveled by ~~[any]~~ a bus operated by a
- 5920 bus company~~[-and-]~~ ; or
- 5921 (B) ~~[parking lots or areas adjacent to terminals]~~ a parking lot or an area adjacent to
- 5922 a terminal.
- 5923 Section 161. Section **76-9-1502**, which is renumbered from Section 76-10-1504 is renumbered
- 5924 and amended to read:
- 5925 ~~[76-10-1504]~~ **76-9-1502 . Bus hijacking.**
- 5926 [(1)(a)]
- 5927 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.
- 5928 (2) ~~[A person is guilty of-]~~ An actor commits bus hijacking if the [person] actor seizes or
- 5929 exercises control, by force or violence or threat of force or violence, of a bus within the

5930 state.

5931 ~~[(b)] (3) [Bus hijacking]~~ A violation of Subsection (2) is a first degree felony.

5932 ~~[(2)(a) A person is guilty of assault with the intent to commit bus hijacking if the person~~
5933 ~~intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or~~
5934 ~~any other person in control of a bus so as to interfere with the performance of duties by~~
5935 ~~the person.]~~

5936 ~~[(b) Assault with the intent to commit bus hijacking is a second degree felony.]~~

5937 ~~[(3) A person who, in the commission of assault with intent to commit bus hijacking, uses~~
5938 ~~a dangerous weapon, as defined in Section 76-1-101.5, is guilty of a first degree felony.]~~

5939 Section 162. Section **76-9-1503** is enacted to read:

5940 **76-9-1503 . Assault with intent to commit bus hijacking.**

5941 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

5942 (2) An actor commits assault with intent to commit bus hijacking if the actor intimidates,
5943 threatens, or commits assault or battery toward a driver, attendant, guard, or any other
5944 person in control of a bus so as to interfere with the performance of duties by the person.

5945 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
5946 degree felony.

5947 (b) A violation of Subsection (2) is a first degree felony if the actor used a dangerous
5948 weapon during the violation.

5949 Section 163. Section **76-9-1504**, which is renumbered from Section 76-10-1505 is renumbered
5950 and amended to read:

5951 **[76-10-1505]76-9-1504 . Unlawful discharge of a firearm or hurling of a missile**
5952 **into a bus or terminal.**

5953 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

5954 (2) ~~[Any person who]~~ Except as provided in Subsection (4), an actor commits unlawful
5955 discharge of a firearm or hurling of a missile into a bus or terminal if the actor
5956 discharges a firearm or hurls a missile at or into [any] a bus or terminal[~~shall be guilty of~~
5957 a third degree felony].

5958 (3) A violation of Subsection (2) is a third degree felony.

5959 ~~[(2)] (4) [The prohibition of this]~~ This section does not apply to elected or appointed peace
5960 officers or commercial security personnel who discharge firearms or hurl missiles in the
5961 course and scope of [their] the peace officer's or commercial security personnel's
5962 employment.

5963 Section 164. Section **76-9-1505**, which is renumbered from Section 76-10-1506 is renumbered

5964 and amended to read:

5965 **[76-10-1506]76-9-1505 . Unlawful conduct while on a bus.**

5966 (1)(a) As used in this section, "controlled substance" means the same as that term is
5967 defined in Section 58-37-2.

5968 (b) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

5969 (2) ~~[A person is guilty of a class C misdemeanor, if the person]~~ An actor commits unlawful
5970 conduct while on a bus if the actor:

5971 (a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar
5972 language on a bus;

5973 (b) is in or upon any bus while unlawfully under the influence of a controlled substance[
5974 as defined in Section 58-37-2];

5975 (c) fails to obey a reasonable request or order of a bus driver, bus company
5976 representative, a nondrinking designee other than the driver as provided in
5977 Subsection 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or
5978 terminal;

5979 (d) ingests ~~[any]~~ a controlled substance, unless prescribed by a physician or a medical
5980 facility, in or upon any bus, or drinks intoxicating liquor in or upon ~~[any]~~ a bus,
5981 except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526;
5982 or

5983 (e) smokes tobacco or other products in or upon ~~[any]~~ a bus, except a chartered bus.

5984 ~~[(2)]~~ (3) A violation of Subsection (2) is a class C misdemeanor.

5985 (4)(a) ~~If [any person violates Subsection (1)]~~ an actor violates Subsection (2), the driver
5986 of the bus or [person] individual in charge thereof may stop at the place where the
5987 offense is committed or at the next regular or convenient stopping place and remove [
5988 such person] the actor, using only such force as may be necessary to accomplish the
5989 removal, and the driver or [person] individual in charge may request the assistance of
5990 passengers to assist in [the removal] removing the actor.

5991 ~~[(3)]~~ (b) The driver or ~~[person]~~ individual in charge may cause the ~~[person so removed]~~
5992 removed actor to be detained and delivered to the proper authorities.

5993 Section 165. Section **76-9-1506**, which is renumbered from Section 76-10-1507 is renumbered
5994 and amended to read:

5995 **[76-10-1507]76-9-1506 . Unlawful refusal to leave a terminal -- Detention of**
5996 **violators -- Private security personnel.**

5997 ~~[(1)(a)]~~ In order to provide for the safety, welfare and comfort of passengers, a bus

- 5998 company may refuse admission to terminals to a person not having bona fide business
5999 within the terminal.]
- 6000 [(b) The refusal may not be inconsistent or contrary to state or federal laws or regulations,
6001 or to an ordinance of the political subdivision in which the terminal is located.]
- 6002 [(e) An authorized bus company representative may require a person in a terminal to
6003 identify himself and state his business.]
- 6004 [(d) Failure to comply with a request under Subsection (1)(c) or to state an acceptable
6005 business purpose is grounds for the representative to request that the person depart the
6006 terminal.]
- 6007 [(e) A person who refuses to comply with a request made under Subsection (1)(d) is guilty
6008 of a class C misdemeanor.]
- 6009 [(2)(a) A person who carries any highly flammable or hazardous material or device into a
6010 terminal or aboard a bus is guilty of a third degree felony.]
- 6011 [(b) The bus company may employ reasonable means, including mechanical, electronic or
6012 x-ray devices to detect the items concealed in baggage or upon the person of a passenger.]
- 6013 [(e) Upon the discovery of an item referred to in Subsection (2)(a), the company may
6014 obtain possession and retain custody of the item until it is transferred to a peace officer.]
- 6015 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.
- 6016 (2) An actor commits unlawful refusal to leave a terminal if:
- 6017 (a) an authorized bus company representative asks the actor to identify the actor's self
6018 and state the ground for the actor's business in the terminal;
- 6019 (b) the actor:
- 6020 (i) fails to comply with the request described in Subsection (2)(a); or
6021 (ii) fails to state an acceptable business purpose;
- 6022 (c) the authorized bus company representative requests that the actor depart the terminal;
- 6023 (d) the request for departure described in Subsection (2)(c) is:
- 6024 (i) within the bus company's ability to refuse admission to a terminal to individuals
6025 who do not have a bona fide business within the terminal as part of the bus
6026 company's provision of safety, welfare, and comfort of passengers; and
- 6027 (ii) not inconsistent with or contrary to state or federal laws or regulations, or to an
6028 ordinance of the political subdivision in which the terminal is located; and
- 6029 (e) the actor refuses to comply with the request described in Subsection (2)(c) to depart
6030 the terminal.
- 6031 (3) A violation of Subsection (2) is a class C misdemeanor.

6032 ~~[(3)]~~ (4)(a) An authorized bus company representative may detain within a terminal or
6033 bus ~~[any person violating]~~ an actor who violates the provisions of this section for a
6034 reasonable time until law enforcement authorities arrive.

6035 (b) The detention described in Subsection (4)(a) does not constitute unlawful
6036 imprisonment and neither the bus company nor the representative is civilly or
6037 criminally liable upon grounds of unlawful imprisonment or assault, provided that
6038 only reasonable and necessary force is exercised against the detained ~~[person]~~ actor.

6039 ~~[(4)]~~ (5)(a) A bus company may employ or contract for private security personnel.

6040 (b) The private security personnel may:

6041 (i) detain within a terminal or bus ~~[a person violating]~~ an actor who violates this
6042 section for a reasonable time until law enforcement authorities arrive; and

6043 (ii) use reasonable and necessary force in subduing or detaining the ~~[person]~~ actor.

6044 Section 166. Section **76-9-1507** is enacted to read:

6045 **76-9-1507 . Unlawful material or device in a bus or a terminal -- Detention of**
6046 **violators -- Private security personnel.**

6047 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

6048 (2) An actor commits unlawful material or device in a bus or a terminal if the actor carries a
6049 highly flammable or hazardous material or device into a terminal or aboard a bus.

6050 (3) A violation of Subsection (2) is a third degree felony.

6051 (4)(a) A bus company may employ reasonable means, including mechanical, electronic
6052 or x-ray devices, to detect the items concealed in baggage or upon the person of a
6053 passenger.

6054 (b) Upon discovery of a highly flammable or hazardous material or device, the bus
6055 company may obtain possession and retain custody of the material or device until the
6056 material or device is transferred to a peace officer.

6057 (5)(a) An authorized bus company representative may detain within a terminal or bus an
6058 actor who violates the provisions of this section for a reasonable time until law
6059 enforcement authorities arrive.

6060 (b) The detention does not constitute unlawful imprisonment and neither the bus
6061 company nor the representative is civilly or criminally liable upon grounds of
6062 unlawful imprisonment or assault, provided that only reasonable and necessary force
6063 is exercised against the detained actor.

6064 (6)(a) A bus company may employ or contract for private security personnel.

6065 (b) The private security personnel may:

6066 (i) detain within a terminal or bus an actor who violates this section for a reasonable
6067 time until law enforcement authorities arrive; and

6068 (ii) use reasonable and necessary force in subduing or detaining the actor.

6069 Section 167. Section **76-9-1508**, which is renumbered from Section 76-10-1508 is renumbered
6070 and amended to read:

6071 **[76-10-1508] 76-9-1508 . Theft of baggage or cargo.**

6072 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

6073 (2) [Any person who] An actor commits theft of baggage or cargo if the actor removes
6074 any baggage, cargo or other item transported upon a bus or stored in a terminal without
6075 the consent of:

6076 (a) [-]the owner of the property; or

6077 (b) the bus company[-,]or [its] the bus company's duly authorized representative[is guilty
6078 of theft and shall be punished pursuant to section 76-6-404].

6079 (3) A violation of Subsection (2) is punishable under Section 76-6-404.

6080 Section 168. Section **76-9-1509**, which is renumbered from Section 76-10-1509 is renumbered
6081 and amended to read:

6082 **[76-10-1509] 76-9-1509 . Obstructing the operation of a bus.**

6083 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

6084 (2) [Any person who] An actor commits obstructing the operation of a bus if the actor
6085 unlawfully obstructs or impedes by force or violence, or any means of intimidation, the
6086 regular operation of a bus[is guilty of a class C misdemeanor].

6087 (3) A violation of Subsection (2) is a class C misdemeanor.

6088 Section 169. Section **76-9-1510**, which is renumbered from Section 76-10-1510 is renumbered
6089 and amended to read:

6090 **[76-10-1510] 76-9-1510 . Conspiracy to obstruct the operation of a bus.**

6091 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

6092 (2) [Two or more persons who] An actor commits conspiracy to obstruct the operation
6093 of a bus if the actor willfully [combine or conspire] combines or conspires with another
6094 individual to violate Section 76-10-1509[shall each be guilty of a class C misdemeanor] .
6095 Obstructing the operation of a bus.

6096 (3) A violation of Subsection (2) is a class C misdemeanor.

6097 Section 170. Section **76-9-1601**, which is renumbered from Section 76-10-1902 is renumbered
6098 and amended to read:

6099

Part 16. Money Laundering and Currency Transaction Reporting6100 **~~[76-10-1902]~~ 76-9-1601 . Definitions.**

6101 As used in this part:

6102 (1) "Bank" means an agent, agency, or office in this state of a person doing business in [any-]
6103 one of the following capacities:6104 (a) a commercial bank or trust company organized under the laws of this state or of the
6105 United States;

6106 (b) a private bank;

6107 (c) a savings and loan association or a building and loan association organized under the
6108 laws of the United States;

6109 (d) an insured institution as defined in Section 401 of the National Housing Act;

6110 (e) a savings bank, industrial bank, or other thrift institution;

6111 (f) a credit union organized under the laws of this state or of the United States; or

6112 (g) any other organization chartered under Title 7, Financial Institutions Act, and subject
6113 to the supervisory authority set forth in that title.6114 (2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a
6115 transaction.6116 (3)(a) "Currency" means the coin and paper money of the United States or of another
6117 country that is designated as legal tender, that circulates, and is customarily used and
6118 accepted as a medium of exchange in the country of issuance.6119 (b) "Currency" includes United States silver certificates, United States notes, Federal
6120 Reserve notes, and foreign bank notes customarily used and accepted as a medium of
6121 exchange in a foreign country.6122 (4) "Financial institution" means an agent, agency, branch, or office within this state of a
6123 person doing business, whether or not on a regular basis or as an organized business
6124 concern, in one or more of the following capacities:

6125 (a) a bank, except bank credit card systems;

6126 (b) a broker or dealer in securities;

6127 (c) a currency dealer or exchanger, including a person engaged in the business of check
6128 cashing;6129 (d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling
6130 agent exclusively who does not sell more than \$150,000 of the instruments within
6131 any 30-day period;

- 6132 (e) a licensed transmitter of funds or other person engaged in the business of
6133 transmitting funds;
- 6134 (f) a telegraph company;
- 6135 (g) a person subject to supervision by a state or federal supervisory authority; or
6136 (h) the United States Postal Service regarding the sale of money orders.
- 6137 (5) "Financial transaction" means a transaction:
- 6138 (a) involving the movement of funds by wire or other means or involving one or more
6139 monetary instruments, which in any way or degree affects commerce; or
6140 (b) involving the use of a financial institution that is engaged in, or its activities affect
6141 commerce in any way or degree.
- 6142 [~~(6) The phrase "knows that the property involved represents the proceeds of some form of
6143 unlawful activity" means that the person knows or it was represented to the person that
6144 the property involved represents proceeds from a form of activity, although the person
6145 does not necessarily know which form of activity, that constitutes a crime under state or
6146 federal law, regardless of whether or not the activity is specified in Subsection (12).]~~
- 6147 [~~(7)~~ (6) "Monetary instruments" means coins or currency of the United States or of another
6148 country, travelers checks, personal checks, bank checks, money orders, and investment
6149 securities or negotiable instruments in bearer form or in other form so that title passes
6150 upon delivery.
- 6151 [~~(8)~~ (7) "Person" means an individual, corporation, partnership, trust or estate, joint stock
6152 company, association, syndicate, joint venture, or other unincorporated organization or
6153 group, and all other entities cognizable as legal personalities.
- 6154 [~~(9)~~ (8) "Proceeds" means property acquired or derived directly or indirectly from,
6155 produced through, realized through, or caused by an act or omission and includes
6156 property of any kind.
- 6157 [~~(10)~~ (9) "Property" means anything of value, and includes an interest in property,
6158 including a benefit, privilege, land, or right with respect to anything of value, whether
6159 real or personal, tangible or intangible.
- 6160 [~~(11)~~ (10) "Prosecuting agency" means the office of the attorney general or the office of the
6161 county attorney, including an attorney on the staff whether acting in a civil or criminal
6162 capacity.
- 6163 [~~(12) "Specified unlawful activity" means an unlawful activity defined as an unlawful
6164 activity in Section 76-10-1602, except an illegal act under Title 18, Section 1961(1)(B),
6165 (C), and (D), United States Code, and includes activity committed outside this state~~

6166 which, if committed within this state, would be unlawful activity.]

6167 [(13)] (11) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or
6168 other disposition. With respect to a financial institution, "transaction" includes a
6169 deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of
6170 credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary
6171 instrument, or any other payment, transfer, or delivery by, through, or to a financial
6172 institution, by whatever means effected.

6173 [(14)] (12) "Transaction in currency" means a transaction involving the physical transfer of
6174 currency from one person to another. A transaction that is a transfer of funds by means
6175 of bank check, bank draft, wire transfer, or other written order that does not include the
6176 physical transfer of currency is not a transaction in currency under this chapter.

6177 (13)(a) "Unlawful activity" means the same as that term is defined in Section
6178 76-10-1602.

6179 (b) "Unlawful activity" includes activity committed outside this state which, if
6180 committed within this state, would be unlawful activity.

6181 (c) "Unlawful activity" does not include an illegal act under 18 U.S.C. Sec. 1961(1)(B),
6182 (C), and (D).

6183 Section 171. Section **76-9-1602**, which is renumbered from Section 76-10-1903 is renumbered
6184 and amended to read:

6185 **[76-10-1903]76-9-1602 . Money laundering.**

6186 (1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

6187 (2) [A person] An actor commits [the offense of] money laundering [who] if the actor:

6188 (a)(i) transports, receives, or acquires [the] property [which] that is [in fact] the
6189 proceeds of [the specified] unlawful activity[;] ; and

6190 (ii) [knowing] knows that the property [involved] represents the proceeds of [some
6191 form of] unlawful activity;

6192 (b)(i) makes proceeds of unlawful activity available to another person by transaction,
6193 transportation, or other means[;] ; and

6194 (ii) [knowing] knows that the proceeds are intended to be used for the purpose of
6195 continuing or furthering the commission of [specified] unlawful activity; or

6196 (c)(i) conducts a transaction involving property;

6197 (ii) [knowing] knows that the property [involved in the transaction] represents the
6198 proceeds of [some form of] unlawful activity; and

6199 (iii) conducts the transaction with the intent:

6200 [(i)] (A) to promote the unlawful activity;
 6201 [(ii)] (B) to conceal or disguise the nature, location, source, ownership, or control
 6202 of the property; or
 6203 [(iii)] (C) to avoid a transaction reporting requirement under this [chapter] part or
 6204 under federal law[; or] .

6205 [~~(d) knowingly accepts or receives property which is represented to be proceeds of~~
 6206 ~~unlawful activity.]~~

6207 [(2) Under Subsection (1)(d), knowledge that the property represents the proceeds of
 6208 unlawful activity may be established by proof that a law enforcement officer or an
 6209 individual acting at the request of a law enforcement officer made the representations
 6210 and the person's subsequent statements or actions indicate that the person believed those
 6211 representations to be true.]

6212 (3) A violation of Subsection (2) is a second degree felony.

6213 (4) Each act committed in violation of Subsection (2) that involves the movement of funds
 6214 in excess of \$10,000 is a separate violation under this section.

6215 (5) Under Subsection (2)(a)(ii), the phrase "knows that the property involved represents the
 6216 proceeds of unlawful activity" means that the actor knows, or it was represented to the
 6217 actor, that the property involved represents proceeds from a form of unlawful activity,
 6218 although the actor does not necessarily know which form of activity, that constitutes a
 6219 crime under state or federal law, regardless of whether or not the activity is specified in
 6220 the definition of unlawful activity.

6221 Section 172. Section **76-9-1603** is enacted to read:

6222 **76-9-1603 . Accepting the proceeds of unlawful activity.**

6223 (1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

6224 (2) An actor commits accepting the proceeds of unlawful activity if the actor knowingly
 6225 accepts or receives property that is represented to the actor to be the proceeds of
 6226 unlawful activity.

6227 (3) A violation of Subsection (2) is a third degree felony.

6228 (4) Each act committed in violation of Subsection (2) that involves the movement of funds
 6229 in excess of \$10,000 is a separate violation under this section.

6230 (5) Under Subsection (2), knowledge that the property represents the proceeds of unlawful
 6231 activity may be established by proof that a law enforcement officer or an individual
 6232 acting at the request of a law enforcement officer made the representations and the
 6233 actor's subsequent statements or actions indicate that the actor believed those

6234 representations to be true.

6235 Section 173. Section **76-9-1604**, which is renumbered from Section 76-10-1906 is renumbered
6236 and amended to read:

6237 **[76-10-1906]76-9-1604 . Failure to report a financial transaction of more than**
6238 **\$10,000.**

6239 ~~[(1)(a) A person engaged in a trade or business, except a financial institution, who~~
6240 ~~receives more than \$10,000 as described in Subsection (1)(b) shall complete and file~~
6241 ~~with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I,~~
6242 ~~concerning returns relating to currency received in trade or business.]~~

6243 ~~[(b) Subsection (1)(a) applies if the person described in Subsection (1) receives more than~~
6244 ~~\$10,000 in domestic or foreign currency:]~~

6245 ~~[(i) in one transaction; or]~~

6246 ~~[(ii) through two or more related transactions during one business day.]~~

6247 ~~[(c) A person who knowingly and intentionally fails to comply with the reporting~~
6248 ~~requirements of this Subsection (1) is:]~~

6249 ~~[(i) on a first conviction, guilty of a class C misdemeanor; and]~~

6250 ~~[(ii) on a second or subsequent conviction, guilty of a class A misdemeanor.]~~

6251 ~~[(d) A person is guilty of a third degree felony who knowingly and intentionally violates~~
6252 ~~this Subsection (1) and the violation is committed either:]~~

6253 ~~[(i) in furtherance of the commission of any other violation of state law; or]~~

6254 ~~[(ii) as part of a pattern of illegal activity involving transactions exceeding \$100,000 in any~~
6255 ~~12-month period.]~~

6256 (1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

6257 (2) An actor commits failure to report a financial transaction of more than \$10,000 if the
6258 actor:

6259 (a) is engaged in a trade or business;

6260 (b) receives more than \$10,000 in domestic or foreign currency:

6261 (i) in one transaction; or

6262 (ii) through two or more related transactions during one business day; and

6263 (c) intentionally or knowingly fails to complete and file with the State Bureau of
6264 Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns
6265 relating to currency received in trade or business.

6266 (3)(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is
6267 a class C misdemeanor.

6268 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A
 6269 misdemeanor if the actor has previously been convicted of violating this section.

6270 (c) A violation of Subsection (2) is a third degree felony if the violation is committed:
 6271 (i) in furtherance of the commission of any other violation of state law; or
 6272 (ii) as part of a pattern of illegal activity involving transactions exceeding \$100,000
 6273 in any 12-month period.

6274 [(2)] (4)(a) The State Bureau of Investigation and the Office of the Attorney General:

6275 (i) shall enforce compliance with Subsection [(+)] (2); and

6276 (ii) are custodians of and have access to all information and documents filed under
 6277 Subsection [(+)] (2).

6278 (b) [The information] Information filed by a trade or business in compliance with this
 6279 section is confidential, except a law enforcement agency, county attorney, or district
 6280 attorney, when establishing a clear need for the information for investigative
 6281 purposes, shall have access to the information and shall maintain the information in a
 6282 confidential manner except as otherwise provided by the Utah Rules of Criminal
 6283 Procedure.

6284 (5) Under this section, each failure by an actor to file a report required under Subsection (2)
 6285 is a separate violation.

6286 (6) This section does not apply to a financial institution.

6287 Section 174. Section **76-9-1701** is enacted to read:

6288

Part 17. Unlawful Use of a Laser Pointer

6289 **76-9-1701 . Definitions.**

6290 As used in this part:

6291 (1) "Aircraft" means the same as that term is defined in Section 72-10-102.

6292 (2) "Laser light" means light that is amplified by stimulated emission of radiation.

6293 (3) "Laser pointer" means any portable device that emits a visible beam of laser light that
 6294 may be directed at an individual.

6295 (4) "Law enforcement officer" means an officer under Section 53-13-103.

6296 Section 175. Section **76-9-1702**, which is renumbered from Section 76-10-2501 is renumbered
 6297 and amended to read:

6298 **[76-10-2501] 76-9-1702 . Unlawful use of a laser pointer against a motor vehicle.**

6299 [(+)] As used in this section:

6300 [(a)] "Aircraft" means the same as that term is defined in Section 72-10-102.;

- 6301 ~~[(b) "Laser light" means light that is amplified by stimulated emission of radiation.]~~
- 6302 ~~[(e) "Laser pointer" means any portable device that emits a visible beam of laser light that~~
- 6303 ~~may be directed at an individual.]~~
- 6304 ~~[(d) "Law enforcement officer" means an officer under Section 53-13-103.]~~
- 6305 (1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.
- 6306 (2) An actor commits unlawful use of a laser pointer against a motor vehicle if the actor
- 6307 directs a beam of laser light from a laser pointer at~~[:]~~ a moving motor vehicle or the
- 6308 occupants of a moving motor vehicle.
- 6309 ~~[(a) a moving motor vehicle or the occupants of a moving motor vehicle;]~~
- 6310 ~~[(b) one whom the actor knows or has reason to know is a law enforcement officer; or]~~
- 6311 ~~[(c) an aircraft or the occupants of an aircraft.]~~
- 6312 ~~[(3) It is an affirmative defense to a charge under Subsection (2)(b) that:]~~
- 6313 ~~[(a) the law enforcement officer was:]~~
- 6314 ~~[(i) not in uniform;]~~
- 6315 ~~[(ii) not traveling in a vehicle identified as a law enforcement vehicle; and]~~
- 6316 ~~[(iii) not otherwise engaged in an activity that would give the actor reason to know the law~~
- 6317 ~~enforcement officer to be a law enforcement officer; and]~~
- 6318 ~~[(b) the law enforcement officer was not otherwise known by the actor to be a law~~
- 6319 ~~enforcement officer.]~~
- 6320 ~~[(4)(a) A violation of Subsection (2)(a) is an infraction.]~~
- 6321 ~~[(b) A violation of Subsection (2)(b) is a class C misdemeanor.]~~
- 6322 ~~[(c)(i) Except as provided in Subsection (4)(c)(ii) or (4)(c)(iii), a violation of Subsection~~
- 6323 ~~(2)(c) is a class B misdemeanor.]~~
- 6324 ~~[(ii) Except as provided in Subsection (4)(c)(iii), a violation of Subsection (2)(c) is a class~~
- 6325 ~~A misdemeanor if the actor previously has been convicted of a violation of Subsection~~
- 6326 ~~(2)(c).]~~
- 6327 ~~[(iii) A violation of Subsection (2)(c) is a third degree felony if the actor's conduct causes~~
- 6328 ~~an aircraft to crash or perform an emergency landing.]~~
- 6329 (3) A violation of Subsection (2) is an infraction.
- 6330 ~~[(5)]~~ (4) If the violation of this section constitutes an offense subject to a greater penalty
- 6331 under another provision of this title than is provided under this section, this section does
- 6332 not prohibit the prosecution and sentencing for the offense subject to a greater penalty.
- 6333 Section 176. Section **76-9-1703** is enacted to read:
- 6334 **76-9-1703 . Unlawful use of a laser pointer against an aircraft.**

- 6335 (1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.
- 6336 (2) An actor commits unlawful use of a laser pointer against an aircraft if the actor directs a
6337 beam of laser light from a laser pointer at an aircraft or the occupants of an aircraft.
- 6338 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
6339 misdemeanor.
- 6340 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A
6341 misdemeanor if the actor previously has been convicted of a violation of Subsection
6342 (2).
- 6343 (c) A violation of Subsection (2) is a third degree felony if the actor's conduct causes an
6344 aircraft to crash or perform an emergency landing.
- 6345 (4) If the violation of this section constitutes an offense subject to a greater penalty under
6346 another provision of this title than is provided under this section, this section does not
6347 prohibit the prosecution and sentencing for the offense subject to a greater penalty.

6348 Section 177. Section **76-9-1704** is enacted to read:

6349 **76-9-1704 . Unlawful use of a laser pointer against a law enforcement officer.**

- 6350 (1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.
- 6351 (2) An actor commits unlawful use of a laser pointer against a law enforcement officer if
6352 the actor directs a beam of laser light from a laser pointer at an individual who the actor
6353 knows or has reason to know is a law enforcement officer.
- 6354 (3) A violation of Subsection (2) is a class C misdemeanor.
- 6355 (4) It is an affirmative defense to a charge under Subsection (2) that:
- 6356 (a) the law enforcement officer was:
- 6357 (i) not in uniform;
- 6358 (ii) not traveling in a vehicle identified as a law enforcement vehicle; and
- 6359 (iii) not otherwise engaged in an activity that would give the actor reason to know the
6360 law enforcement officer to be a law enforcement officer; and
- 6361 (b) the law enforcement officer was not otherwise known by the actor to be a law
6362 enforcement officer.
- 6363 (5) If the violation of this section constitutes an offense subject to a greater penalty under
6364 another provision of this title than is provided under this section, this section does not
6365 prohibit the prosecution and sentencing for the offense subject to a greater penalty.

6366 Section 178. Section **76-9-1801** is enacted to read:

6367

Part 18. Litter and Recycling Violations

6368 **76-9-1801 . Definitions.**

6369 Reserved.

6370 Section 179. Section **76-9-1802**, which is renumbered from Section 76-10-2701 is renumbered
6371 and amended to read:

6372 **[76-10-2701]76-9-1802 . Unlawful littering on land or waterway.**

6373 (1)(a) As used in this section, "litter" includes a glass bottle, glass, a nail, tack, wire,
6374 can, barbed wire, board, trash or garbage, paper or paper products, or any other
6375 substance that would or could mar or impair the scenic aspect or beauty of the land.

6376 (b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

6377 (2) An actor commits unlawful littering on land or waterway if the actor drops, throws,
6378 deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, litter in a
6379 A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited,
6380 or discarded on any] park, recreation area, or other public or private land, or waterway,[
6381 any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage,
6382 paper or paper products, or any other substance which would or could mar or impair the
6383 scenic aspect or beauty of the land in the state whether under private, state, county,
6384 municipal, or federal ownership] without the permission of the owner or person having
6385 control or custody of the land or waterway.

6386 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
6387 fine of \$100 for each violation.

6388 (b) The court may require the actor to participate in at least four hours of cleaning up:

6389 (i) litter caused by the actor's offense; and

6390 (ii) existing litter from a safe area designated by the court.

6391 [(2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown,
6392 deposited, or discarded, on any park, recreation area, or other public or private land or
6393 waterway any destructive, injurious, or unsightly material shall:]

6394 [(a) immediately remove the material or cause it to be removed; and]

6395 [(b) deposit the material in a receptacle designed to receive the material.]

6396 [(3) A person distributing commercial handbills, leaflets, or other advertising shall take
6397 whatever measures are reasonably necessary to keep the material from littering public or
6398 private property.]

6399 [(4) A person removing a wrecked or damaged vehicle from a park, recreation area, or
6400 other public or private land shall remove any glass or other injurious substance dropped
6401 from the vehicle in the park, recreation area, or other public or private land.]

- 6402 [~~(5) A person in charge of a construction or demolition site shall take reasonable steps to~~
6403 ~~prevent the accumulation of litter at the construction or demolition site.]~~
- 6404 [~~(6) A law enforcement officer as defined in Section 53-13-103, within the law~~
6405 ~~enforcement officer's jurisdiction:]~~
- 6406 [~~(a) shall enforce the provisions of this section;~~
6407 ~~(b) may issue citations to a person who violates any of the provisions of this section; and]~~
6408 [~~(c) may serve and execute all warrants, citations, and other processes issued by any court~~
6409 ~~in enforcing this section.]~~
- 6410 [~~(7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline service~~
6411 ~~station, shopping center, grocery store parking lot, tavern parking lot, parking lots of~~
6412 ~~industrial firms, marina, boat launching area, boat moorage and fueling station, public~~
6413 ~~and private pier, beach, and bathing area shall maintain sufficient litter receptacles on~~
6414 ~~the premises to accommodate the litter that accumulates.]~~
- 6415 [~~(8)~~ (4) A municipality within [its] the municipality's corporate limits and a county outside
6416 of incorporated municipalities may enact local ordinances to carry out the provisions of
6417 this section.

6418 Section 180. Section **76-9-1803** is enacted to read:

6419 **76-9-1803 . Unlawful failure to prevent advertising materials from becoming**
6420 **litter.**

- 6421 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.
- 6422 (2) An actor commits unlawful failure to prevent advertising materials from becoming litter
6423 if the actor:
- 6424 (a) distributes commercial handbills, leaflets, or other advertising materials; and
6425 (b) fails take measures that are reasonably necessary to keep the commercial handbills,
6426 leaflets, or other advertising materials from littering public or private property.
- 6427 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
6428 fine of \$100 for each violation.
- 6429 (b) The court may require the actor to participate in at least four hours of cleaning up:
6430 (i) litter caused by the actor's offense; and
6431 (ii) existing litter from a safe area designated by the court.
- 6432 (4) A municipality within the municipality's corporate limits and a county outside of
6433 incorporated municipalities may enact local ordinances to carry out the provisions of this
6434 section.

6435 Section 181. Section **76-9-1804** is enacted to read:

6436 **76-9-1804 . Unlawful failure to remove injurious substance while removing a**
6437 **vehicle.**

6438 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

6439 (2) An actor commits unlawful failure to remove injurious substance while removing a
6440 vehicle if the actor:

6441 (a) removes a wrecked or damaged vehicle from a park, recreation area, or other public
6442 or private land; and

6443 (b) fails to remove glass or other injurious substance dropped from the vehicle in the
6444 park, recreation area, or other private or public land.

6445 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
6446 fine of \$100 for each violation.

6447 (b) The court may require the actor to participate in at least four hours of cleaning up:

6448 (i) the glass or other injurious substance dropped from the vehicle; and

6449 (ii) existing litter from a safe area designated by the court.

6450 (4) A municipality within the municipality's corporate limits and a county outside of
6451 incorporated municipalities may enact local ordinances to carry out the provisions of this
6452 section.

6453 Section 182. Section **76-9-1805** is enacted to read:

6454 **76-9-1805 . Unlawful failure to prevent accumulation of litter at a construction**
6455 **or demolition site.**

6456 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

6457 (2) An actor commits unlawful failure to prevent accumulation of litter at a construction or
6458 demolition site if the actor:

6459 (a) is in charge of a construction or demolition site; and

6460 (b) fails to take reasonable steps to prevent the accumulation of litter at the construction
6461 or demolition site.

6462 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
6463 fine of \$100 for each violation.

6464 (b) The court may require the actor to participate in at least four hours of cleaning up:

6465 (i) the litter caused by the actor's offense; and

6466 (ii) existing litter from a safe area designated by the court.

6467 (4) A municipality within the municipality's corporate limits and a county outside of
6468 incorporated municipalities may enact local ordinances to carry out the provisions of this
6469 section.

6470 Section 183. Section **76-9-1806** is enacted to read:

6471 **76-9-1806 . Unlawful failure to provide sufficient litter receptacles.**

6472 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

6473 (2) An actor commits unlawful failure to provide sufficient litter receptacles if the actor:

6474 (a) is an operator of a park, campground, trailer park, drive-in restaurant, gasoline
6475 service station, shopping center, grocery store parking lot, tavern parking lot, parking
6476 lot of an industrial firm, marina, boat launching area, boat moorage and fueling
6477 station, public or private pier, beach, or bathing area; and

6478 (b) fails to maintain sufficient litter receptacles on the premises to accommodate the
6479 litter that accumulates on the premises.

6480 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
6481 fine of \$100 for each violation.

6482 (b) The court may require the actor to participate in at least four hours of cleaning up:

6483 (i) the litter caused by the actor's offense; and

6484 (ii) existing litter from a safe area designated by the court.

6485 (4) A municipality within the municipality's corporate limits and a county outside of
6486 incorporated municipalities may enact local ordinances to carry out the provisions of this
6487 section.

6488 Section 184. Section **76-9-1807**, which is renumbered from Section 76-10-2101 is renumbered
6489 and amended to read:

6490 **[76-10-2101]76-9-1807 . Unlawful misuse of a recycling bin.**

6491 (1)(a) As used in this section:

6492 [(a)] (i) "Recycling" means the process of collecting materials diverted from the waste
6493 stream for reuse.

6494 [(b)] (ii) "Recycling bin" means any receptacle made available to the public by a
6495 governmental entity or private business for the collection of any source-separated
6496 item for recycling purposes.

6497 (b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

6498 (2) [~~It is an infraction to place any-~~] An actor commits unlawful misuse of a recycling bin if:

6499 (a) the actor places a prohibited item or substance in a recycling bin; and

6500 (b) [~~if the~~] the recycling bin is posted with the following information printed legibly in
6501 basic English:

6502 [(a)] (i) a descriptive list of the items that may be deposited in the recycling bin,
6503 entitled in boldface capital letters: "ITEMS YOU MAY DEPOSIT IN THIS

6504 RECYCLING BIN:";

6505 [~~(b)~~] (ii) at the end of the list in Subsection [~~(2)(a),~~] (2)(b)(i), the following statement

6506 in boldface capital letters: "REMOVING FROM THIS BIN ANY ITEM THAT IS

6507 LISTED ABOVE AND THAT YOU DID NOT PLACE IN THE CONTAINER

6508 IS THE CRIMINAL OFFENSE OF THEFT, PUNISHABLE BY LAW.";

6509 [(e)] (iii) the following statement in boldface capital letters: "DEPOSIT OF ANY

6510 OTHER ITEM IN THIS RECYCLING BIN IS AGAINST THE LAW.";

6511 [~~(d)~~] (iv) the following statement in boldface capital letters, posted on the recycling

6512 collection container in close proximity to the other notices required under [

6513 ~~Subsections (2)(a), (b), and (c)] Subsection (2)(b): "PLACING ANY ITEM OR~~

6514 SUBSTANCE IN THIS RECYCLING BIN OTHER THAN THOSE ALLOWED

6515 IN THE LIST POSTED ON THIS BIN IS AN INFRACTION, PUNISHABLE

6516 BY A MAXIMUM FINE OF \$750."; and

6517 [(e)] (v) the name and telephone number of the entity that owns the recycling bin or is

6518 responsible for its placement and maintenance.

6519 (3) A violation of Subsection (2) is an infraction.

6520 Section 185. Section **76-9-1901** is enacted to read:

6521

Part 19. Unlawful Contraband Compartment in a Vehicle

6522 **76-9-1901 . Definitions.**

6523 As used in this part:

6524 (1)(a) "Compartment" means any box, container, space, or enclosure:

6525 (i) that is intended or designed to conceal, hide, or otherwise prevent the discovery of

6526 contraband; and

6527 (ii) that is within a vehicle or attached to a vehicle.

6528 (b) "Compartment" includes:

6529 (i) false, altered, or modified fuel tanks;

6530 (ii) original factory equipment of a vehicle that is modified, altered, or changed to

6531 accommodate or contain contraband; and

6532 (iii) a box, container, space, or enclosure that is fabricated, made, created from, or

6533 added to the existing structure of a vehicle.

6534 (2)(a) "Contraband" means any property, item, or substance that is unlawful to produce

6535 or possess under state or federal law.

6536 (b) "Contraband" includes any cash or monetary instrument that is the proceeds of an

6537 unlawful activity under Subsection 76-10-1602(4) [CHANGE CITATION to account
6538 for renumbering].

6539 (3) "Motor vehicle" means the same as that term is defined in Section 41-6a-102.

6540 (4) "Semitrailer" means the same as that term is defined in Section 41-6a-102.

6541 (5) "Trailer" means the same as that term is defined in Section 41-1a-102.

6542 (6) "Vehicle" means a motor vehicle, a trailer, or a semitrailer.

6543 Section 186. Section **76-9-1902**, which is renumbered from Section 76-10-2801 is renumbered
6544 and amended to read:

6545 **[76-10-2801] 76-9-1902 . Vehicle compartment for contraband -- Penalties.**

6546 [(1) ~~As used in this section:~~]

6547 [(a)(i) ~~"Compartment" means any box, container, space, or enclosure:]~~

6548 [~~(A) that is intended or designed to conceal, hide, or otherwise prevent the discovery of~~
6549 ~~contraband; and]~~

6550 [~~(B) that is within a vehicle or attached to a vehicle.]~~

6551 [(ii) ~~"Compartment" includes:]~~

6552 [~~(A) false, altered, or modified fuel tanks;~~

6553 [~~(B) original factory equipment of a vehicle that is modified, altered, or changed to~~
6554 ~~accommodate or contain contraband; and]~~

6555 [~~(C) a box, container, space, or enclosure that is fabricated, made, created from, or added~~
6556 ~~to the existing structure of a vehicle.]~~

6557 [(b)(i) ~~"Contraband" means any property, item, or substance which is unlawful to produce~~
6558 ~~or possess under state or federal law.]~~

6559 [(ii) ~~"Contraband" includes any cash or monetary instrument that is the proceeds of an~~
6560 ~~unlawful activity under Subsection 76-10-1602(4).]~~

6561 [(e) ~~"Motor vehicle" has the same meaning as in Section 41-6a-102.]~~

6562 [(d) ~~"Semitrailer" has the same meaning as in Section 41-6a-102.]~~

6563 [(e) ~~"Trailer" has the same meaning as in Section 41-1a-102.]~~

6564 [(f) ~~"Vehiele" means a motor vehicle, a trailer, and a semitrailer.]~~

6565 (1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

6566 (2) [It is a class A misdemeanor for a person to-] An actor commits unlawful possession,
6567 use, or control of a vehicle with a contraband compartment if the actor knowingly [
6568 possess, use, or control] possesses, uses, or controls a vehicle [which] that has a
6569 compartment with the intent to store, conceal, or transport contraband in the
6570 compartment.

- 6571 [(3) It is a third degree felony for a person to facilitate the storage, concealment, or
 6572 transportation of contraband by:]
 6573 [(a) ~~designing, constructing, building, altering, or fabricating a compartment for a vehicle;~~
 6574 [(b) ~~installing or creating a compartment in a vehicle; or~~
 6575 [(c) ~~attaching a compartment to a vehicle.~~]
 6576 (3) A violation of Subsection (2) is a class A misdemeanor.
 6577 (4) The trier of fact may infer that [a person] an actor intended to store, conceal, or transport
 6578 contraband if:
 6579 (a) [-]the [person] actor possesses, uses, or controls a vehicle that has a compartment[-] ;
 6580 and
 6581 (b) [-]the compartment contains:
 6582 [(a)] (i) contraband; or
 6583 [(b)] (ii) evidence of prior storage, concealment, or transportation of contraband.
 6584 Section 187. Section **76-9-1903** is enacted to read:

6585 **76-9-1903 . Unlawful creation, installation, or attachment of a contraband**
 6586 **compartment.**

- 6587 (1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.
 6588 (2) An actor commits unlawful creation, installation, or attachment of a contraband
 6589 compartment if the actor facilitates the storage, concealment, or transportation of
 6590 contraband by:
 6591 (a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;
 6592 (b) installing or creating a compartment in a vehicle; or
 6593 (c) attaching a compartment to a vehicle.
 6594 (3) A violation of Subsection (2) is a third degree felony.
 6595 (4) The trier of fact may infer that an actor intends to store, conceal, or transport contraband
 6596 if:
 6597 (a) the actor possesses, uses, or controls a vehicle that has a compartment; and
 6598 (b) the compartment contains:
 6599 (i) contraband; or
 6600 (ii) evidence of prior storage, concealment, or transportation of contraband.

6601 Section 188. Section **76-9-2001** is enacted to read:

6602 **Part 20. Unlawful Tattooing or Body Piercing of a Minor**

6603 **76-9-2001 . Definitions.**

6604 As used in this part:

6605 (1) "Body piercing" means the creation of an opening in the body, excluding the ear, for the
6606 purpose of inserting jewelry or other decoration.

6607 (2) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal
6608 guardian during the performance of tattooing or body piercing upon the minor after the
6609 parent or legal guardian has provided:

6610 (a) reasonable proof of personal identity and familial relationship; and

6611 (b) written permission signed by the parent or legal guardian authorizing the
6612 performance of tattooing or body piercing upon the minor.

6613 (3) "Minor" means a person younger than 18 years old who:

6614 (a) is not married; and

6615 (b) has not been declared emancipated by a court of law.

6616 (4) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment
6617 under the skin or by producing scars.

6618 Section 189. Section **76-9-2002**, which is renumbered from Section 76-10-2201 is renumbered
6619 and amended to read:

6620 **[76-10-2201]76-9-2002 . Unlawful tattooing of a minor.**

6621 [(1) As used in this section:]

6622 [(a) "Body piercing" means the creation of an opening in the body, excluding the ear, for
6623 the purpose of inserting jewelry or other decoration.]

6624 [(b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal
6625 guardian during the performance of body piercing or tattooing upon the minor after the
6626 parent or legal guardian has provided:]

6627 [(i) reasonable proof of personal identity and familial relationship; and]

6628 [(ii) written permission signed by the parent or legal guardian authorizing the performance
6629 of body piercing or tattooing upon the minor.]

6630 [(c) "Minor" means a person younger than 18 years of age who:]

6631 [(i) is not married; and]

6632 [(ii) has not been declared emancipated by a court of law.]

6633 [(d) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment
6634 under the skin or by producing scars.]

6635 [(2) A person is guilty of unlawful body piercing of a minor if the person performs or
6636 offers to perform a body piercing:]

6637 [(a) upon a minor;]

- 6638 [(b) without receiving the consent of the minor's parent or legal guardian; and]
6639 [(e) for remuneration or in the course of a business or profession.]
- 6640 [(3)] (1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.
- 6641 (2) [A person is guilty of] Except as provided in Subsection (5), an actor commits unlawful
6642 tattooing of a minor if the [person] actor performs or offers to perform a tattooing:
- 6643 (a) upon a minor;
- 6644 (b) without receiving the consent of the minor's parent or legal guardian; and
- 6645 (c) for remuneration or in the course of a business or profession.
- 6646 (3) A violation of Subsection (2) is a class B misdemeanor.
- 6647 (4) The owner or operator of a business in which a violation of Subsection (2) occurs is
6648 subject to a civil penalty of \$1,000 for each violation.
- 6649 [(4)] (5) [A person] An actor is not guilty of violating Subsection (2) [or (3)], if the [person]
6650 actor:
- 6651 (a) has no actual knowledge of the minor's age; and
- 6652 (b) reviews, photocopies, and retains the photocopy of an apparently valid driver license
6653 or other government-issued picture identification for the minor that expressly
6654 purports that the minor is 18 years [of age] old or older before the [person] actor
6655 performs the [body piercing or] tattooing.
- 6656 [(5)(a) A person who violates Subsection (2) or (3) is guilty of a class B misdemeanor.]
- 6657 [(b) The owner or operator of a business in which a violation of Subsection (2) or (3)
6658 occurs is subject to a civil penalty of \$1,000 for each violation.]
- 6659 Section 190. Section **76-9-2003** is enacted to read:
- 6660 **76-9-2003 . Unlawful body piercing of a minor.**
- 6661 (1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.
- 6662 (2) Except as provided in Subsection (5), an actor commits unlawful body piercing of a
6663 minor if the actor performs or offers to perform a body piercing:
- 6664 (a) upon a minor;
- 6665 (b) without receiving the consent of the minor's parent or legal guardian; and
- 6666 (c) for remuneration or in the course of a business or profession.
- 6667 (3) A violation of Subsection (2) is a class B misdemeanor.
- 6668 (4) The owner or operator of a business in which a violation of Subsection (2) occurs is
6669 subject to a civil penalty of \$1,000 for each violation.
- 6670 (5) An actor is not guilty of violating Subsection (2) if the actor:
- 6671 (a) has no actual knowledge of the minor's age; and

6672 (b) reviews, photocopies, and retains the photocopy of an apparently valid driver license
6673 or other government-issued picture identification for the minor that expressly
6674 purports that the minor is 18 years old or older before the actor performs the body
6675 piercing.

6676 Section 191. Section **76-11-101**, which is renumbered from Section 76-10-501 is renumbered
6677 and amended to read:

6678

CHAPTER 11. WEAPONS

6679

Part 1. General Provisions

6680 ~~[76-10-501]~~**76-11-101 . Definitions.**

6681 As used in this [part] chapter:

6682 (1)(a) "Antique firearm" means:

6683 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or
6684 similar type of ignition system, manufactured in or before 1898;

6685 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the
6686 replica:

6687 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
6688 ammunition; or

6689 (B) uses rimfire or centerfire fixed ammunition which is:

6690 (I) no longer manufactured in the United States; and

6691 (II) is not readily available in ordinary channels of commercial trade; or

6692 (iii)(A) that is a muzzle loading rifle, shotgun, or pistol; and

6693 (B) is designed to use black powder, or a black powder substitute, and cannot use
6694 fixed ammunition.

6695 (b) "Antique firearm" does not include:

6696 (i) a weapon that incorporates a firearm frame or receiver;

6697 (ii) a firearm that is converted into a muzzle loading weapon; or

6698 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition
6699 by replacing the:

6700 (A) barrel;

6701 (B) bolt;

6702 (C) breechblock; or

6703 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

6704 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201

- 6705 within the Department of Public Safety.
- 6706 (3)(a) "Concealed firearm" means a firearm that is:
- 6707 (i) covered, hidden, or secreted in a manner that the public would not be aware of its
- 6708 presence; and
- 6709 (ii) readily accessible for immediate use.
- 6710 (b) A firearm that is unloaded and securely encased is not a concealed firearm for the
- 6711 purposes of this part.
- 6712 [~~(4) "Criminal history background check" means a criminal background check conducted~~
- 6713 ~~by a licensed firearms dealer on every purchaser of a handgun, except a Federal~~
- 6714 ~~Firearms Licensee, through the bureau or the local law enforcement agency where the~~
- 6715 ~~firearms dealer conducts business.]~~
- 6716 [~~(5)] (4) "Curio or relic firearm" means a firearm that:~~
- 6717 (a) is of special interest to a collector because of a quality that is not associated with
- 6718 firearms intended for:
- 6719 (i) sporting use;
- 6720 (ii) use as an offensive weapon; or
- 6721 (iii) use as a defensive weapon;
- 6722 (b)(i) was manufactured at least 50 years before the current date; and
- 6723 (ii) is not a replica of a firearm described in Subsection [~~(5)(b)(i)] (4)(b)(i);~~
- 6724 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
- 6725 firearms to be a curio or relic of museum interest;
- 6726 (d) derives a substantial part of its monetary value:
- 6727 (i) from the fact that the firearm is:
- 6728 (A) novel;
- 6729 (B) rare; or
- 6730 (C) bizarre; or
- 6731 (ii) because of the firearm's association with an historical:
- 6732 (A) figure;
- 6733 (B) period; or
- 6734 (C) event; and
- 6735 (e) has been designated as a curio or relic firearm by the director of the United States
- 6736 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R.
- 6737 Sec. 478.11.
- 6738 [~~(6)] (5)(a) "Dangerous weapon" means:~~

- 6739 (i) a firearm; or
6740 (ii) an object that in the manner of its use or intended use is capable of causing death
6741 or serious bodily injury.
- 6742 (b) The following factors are used in determining whether any object, other than a
6743 firearm, is a dangerous weapon:
- 6744 (i) the location and circumstances in which the object was used or possessed;
6745 (ii) the primary purpose for which the object was made;
6746 (iii) the character of the wound, if any, produced by the object's unlawful use;
6747 (iv) the manner in which the object was unlawfully used;
6748 (v) whether the manner in which the object is used or possessed constitutes a
6749 potential imminent threat to public safety; and
6750 (vi) the lawful purposes for which the object may be used.
- 6751 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
6752 as defined by Section 76-10-306.
- 6753 ~~[(7)(a) "Dating relationship" means a romantic or intimate relationship between~~
6754 ~~individuals.]~~
- 6755 ~~[(b) "Dating relationship" does not include a casual acquaintanceship or ordinary~~
6756 ~~fraternization in a business or social context.]~~
- 6757 ~~[(8) "Dealer" means a person who is:]~~
- 6758 ~~[(a) licensed under 18 U.S.C. Sec. 923; and]~~
6759 ~~[(b) engaged in the business of selling, leasing, or otherwise transferring a handgun,~~
6760 ~~whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.]~~
- 6761 ~~[(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.]~~
- 6762 ~~[(10) "Enter" means intrusion of the entire body.]~~
- 6763 ~~[(11) "Federal Firearms Licensee" means a person who:]~~
- 6764 ~~[(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and]~~
6765 ~~[(b) is engaged in the activities authorized by the specific category of license held.]~~
- 6766 ~~[(12)] [(6)] [(a)] "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle~~
6767 ~~or short barreled rifle, or a device that could be used as a dangerous weapon from~~
6768 ~~which is expelled a projectile by action of an explosive.~~
- 6769 ~~[(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an~~
6770 ~~antique firearm.]~~
- 6771 ~~[(13) "Firearms transaction record form" means a form created by the bureau to be~~
6772 ~~completed by a person purchasing, selling, or transferring a handgun from a dealer in the~~

- 6773 state.]
- 6774 [(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be
6775 readily restored to fire, automatically more than one shot without manual reloading by a
6776 single function of the trigger.]
- 6777 [(15)] (7)(a) "Handgun" means a pistol, revolver, or other firearm of any description,
6778 loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the
6779 length of which, not including any revolving, detachable, or magazine breech, does
6780 not exceed 12 inches.
- 6781 [(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol
6782 or revolver" do not include an antique firearm.]
- 6783 [(16) "House of worship" means a church, temple, synagogue, mosque, or other building
6784 set apart primarily for the purpose of worship in which religious services are held and
6785 the main body of which is kept for that use and not put to any other use inconsistent with
6786 its primary purpose.]
- 6787 [(17) "Machinegun firearm attachment" means any part or combination of parts added to a
6788 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.]
- 6789 [(18)] (8) "Prohibited area" means a place where it is unlawful to discharge a firearm.
- 6790 [(19) "Readily accessible for immediate use" means that a firearm or other dangerous
6791 weapon is carried on the person or within such close proximity and in such a manner
6792 that it can be retrieved and used as readily as if carried on the person.]
- 6793 [(20)] (9) "Residence" means an improvement to real property used or occupied as a
6794 primary or secondary residence.
- 6795 [(21) "Securely encased" means not readily accessible for immediate use, such as held in a
6796 gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
6797 storage area of a motor vehicle, not including a glove box or console box.]
- 6798 (10)(a) Short barreled rifle means a rifle that has a barrel or barrels of fewer than 16
6799 inches in length.
- 6800 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,
6801 modification, or otherwise, if the weapon as modified has an overall length of fewer
6802 than 26 inches.
- 6803 [(22)] (11)(a) "Short barreled shotgun" [~~or "short barreled rifle"~~] means a shotgun [
6804 having] that has a barrel or barrels of fewer than 18 inches in length [~~, or in the case of
6805 a rifle, having a barrel or barrels of fewer than 16 inches in length,~~] .
- 6806 (b) [~~or~~] "Short barreled shotgun" includes a dangerous weapon made from a [rifle or]

6807 shotgun by alteration, modification, or otherwise, if the weapon as modified has an
6808 overall length of fewer than 26 inches.

6809 ~~[(23)]~~ (12) "Shotgun" means a smooth bore firearm designed to fire cartridges containing
6810 pellets or a single slug.

6811 ~~[(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the
6812 shoulder.]~~

6813 ~~[(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.]~~

6814 ~~[(26)]~~ (13) "Slug" means a single projectile discharged from a shotgun shell.

6815 ~~[(27) "State entity" means a department, commission, board, council, agency, institution,
6816 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
6817 bureau, panel, or other administrative unit of the state.]~~

6818 ~~[(28)]~~ (14) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

6819 Section 192. Section **76-11-102**, which is renumbered from Section 76-10-502 is renumbered
6820 and amended to read:

6821 ~~[76-10-502]~~ **76-11-102 . When a weapon is deemed to be loaded.**

6822 (1) For the purpose of this chapter, ~~[any pistol, revolver, shotgun, rifle, or other weapon
6823 described in this part shall be deemed to be]~~ a firearm is considered to be loaded when
6824 there is an unexpended cartridge, shell, or projectile in the firing position.

6825 (2) ~~[Pistols and revolvers shall also be deemed to be]~~ Handguns are also considered to be
6826 loaded when an unexpended cartridge, shell, or projectile is in a position whereby the
6827 manual operation of any mechanism once would cause the unexpended cartridge, shell,
6828 or projectile to be fired.

6829 (3) A muzzle loading firearm ~~[shall be deemed to be]~~ is considered loaded when ~~[it]~~ the
6830 muzzle loading firearm is capped or primed and has a powder charge and ball or shot in
6831 the barrel or cylinders.

6832 Section 193. Section **76-11-201** is enacted to read:

6833 **Part 2. General Weapons Violations**

6834 **76-11-201 . Definitions.**

6835 As used in this part:

6836 (1) "Enter" means intrusion of the entire body.

6837 (2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be
6838 readily restored to fire, automatically more than one shot without manual reloading by a
6839 single function of the trigger.

6840 (3) "House of worship" means a church, temple, synagogue, mosque, or other building set
 6841 apart primarily for the purpose of worship in which religious services are held and the
 6842 main body of which is kept for that use and not put to any other use inconsistent with its
 6843 primary purpose.

6844 (4) "Machinegun firearm attachment" means any part or combination of parts added to a
 6845 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

6846 (5) "Readily accessible for immediate use" means that a firearm or other dangerous weapon
 6847 is carried on the person or within such close proximity and in such a manner that it can
 6848 be retrieved and used as readily as if carried on the person.

6849 (6) "Securely encased" means not readily accessible for immediate use, such as held in a
 6850 gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
 6851 storage area of a motor vehicle, not including a glove box or console box.

6852 Section 194. Section **76-11-202**, which is renumbered from Section 76-10-504 is renumbered
 6853 and amended to read:

6854 **[76-10-504]76-11-202 . Carrying a concealed firearm.**

6855 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6856 ~~[(1)] (2) [Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2),~~
 6857 ~~(3), and (4), a person who-] An actor commits carrying a concealed firearm if the actor:~~

6858 (a)(i) carries a concealed loaded or unloaded firearm~~[-as defined in Section~~

6859 76-10-501, including an unloaded firearm on his or her] on the actor's person; or

6860 (ii) ~~[-one]~~ has a loaded or unloaded firearm that is readily accessible for immediate
 6861 use which is not securely encased~~[-as defined in this part,]~~ ; and

6862 (b) is in or on a place other than the [person's] actor's residence, property, a vehicle in the [
 6863 person's] actor's lawful possession, or a vehicle, with the consent of the individual
 6864 who is lawfully in possession of the vehicle, or business under the [person's] actor's
 6865 control~~[is guilty of a class B misdemeanor].~~

6866 ~~[(2)] (3)(a) Except as provided in Subsections (3)(b) and (c), a violation of Subsection (2)~~
 6867 is a class B misdemeanor.

6868 (b) ~~[A person who carries a-] Except as provided in Subsection (3)(c), a violation of~~
 6869 Subsection (2) is a Class A misdemeanor if the concealed firearm ~~[that-]is[-a]~~ loaded [
 6870 firearm in] at the time of the violation~~[-of Subsection (1) is guilty of a class A~~
 6871 misdemeanor].

6872 ~~[(3)] (c) ~~[A person who carries concealed an-] A violation of Subsection (2) is a second~~~~
 6873 degree felony if:

6874 (i) the concealed firearm is an unlawfully possessed short barreled shotgun or a short
 6875 barreled rifle[is guilty of a second-degree felony.] ; or
 6876 ~~[(4)]~~ (ii) ~~[If the concealed-]~~ the firearm that is concealed is used in the commission of a
 6877 violent felony ~~[as defined in Section 76-3-203.5]~~, and the ~~[person]~~ actor is a party
 6878 to the offense~~[-, the person is guilty of a second-degree felony].~~

6879 ~~[(5)]~~ (4) ~~[Nothing in Subsection (1) or (2) prohibits]~~ This section does not:

6880 (a) ~~[-a person]~~ prohibit an individual engaged in the lawful taking of protected or
 6881 unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a
 6882 concealed firearm ~~[as long as]~~ if the taking of wildlife does not occur:

6883 ~~[(a)]~~ (i) within the limits of a municipality in violation of that municipality's
 6884 ordinances; or

6885 ~~[(b)]~~ (ii) upon the highways of the state as defined in Section 41-6a-102[-] ; or

6886 (b) apply to an individual who is a restricted person under Section 76-11-302 and may
 6887 not possess a firearm in any manner or location and is subject to the penalties
 6888 described in Part 3, Persons Restricted Regarding Dangerous Weapons.

6889 Section 195. Section **76-11-203**, which is renumbered from Section 76-10-505 is renumbered
 6890 and amended to read:

6891 ~~[76-10-505]~~ **76-11-203 . Carrying a loaded firearm in a vehicle or on a street.**

6892 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6893 ~~[(1)]~~ (2) ~~[Unless otherwise authorized by law, a person may not carry a loaded firearm]~~ An
 6894 actor commits carrying a loaded firearm in a vehicle or on a street if the actor carries a
 6895 loaded firearm:

6896 (a) in or on a vehicle, unless:

6897 (i) the vehicle is in the person's lawful possession; or

6898 (ii) the ~~[person]~~ actor is carrying the loaded firearm in a vehicle with the consent of
 6899 the ~~[person]~~ individual lawfully in possession of the vehicle;

6900 (b) on a public street; or

6901 (c) in a posted prohibited area.

6902 (3) A violation of Subsection (2) is a class B misdemeanor.

6903 ~~[(2)]~~ (4) Subsection ~~[(1)(a)]~~ (2)(a) does not apply to a minor under 18 years of age, since a
 6904 minor under 18 years of age may not carry a loaded firearm in or on a vehicle.

6905 ~~[(3)]~~ (5) Notwithstanding Subsections ~~[(1)(a)(i) and (ii)]~~ (2)(a)(i) and (ii), and Subsection [
 6906 ~~76-10-523(5), a person]~~ 53-5a-108(5), an actor may not possess a loaded rifle, shotgun,
 6907 or muzzle-loading rifle in a vehicle.

6908 ~~[(4) A violation of this section is a class B misdemeanor.]~~

6909 Section 196. Section **76-11-204**, which is renumbered from Section 76-10-505.5 is renumbered
6910 and amended to read:

6911 ~~[76-10-505.5]~~ **76-11-204 . Possession of a dangerous weapon on or about school**
6912 **premises.**

6913 (1)(a) As used in this section, "on or about school premises" means:

6914 ~~[(a)]~~ (i) ~~[(i)]~~ (A) in a public or private elementary or secondary school; or

6915 ~~[(ii)]~~ (B) on the grounds of any of those schools;

6916 ~~[(b)]~~ (ii) ~~[(i)]~~ (A) in a public or private institution of higher education; or

6917 ~~[(iii)]~~ (B) on the grounds of a public or private institution of higher education; or

6918 ~~[(c)]~~ (iii) ~~[(i)]~~ (A) inside the building where a preschool or child care is being held,

6919 if the entire building is being used for the operation of the preschool or child

6920 care; or

6921 ~~[(d)]~~ (B) if only a portion of a building is being used to operate a preschool or

6922 child care, in that room or rooms where the preschool or child care operation is

6923 being held.

6924 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this

6925 section.

6926 (2) An actor ~~[who]~~ commits possession of a dangerous weapon on or about school premises

6927 if the actor:

6928 (a) [-]is 18 years old or older; and

6929 (b) ~~[-may not possess]~~ possesses a dangerous weapon~~[-, firearm, or short barreled shotgun-]~~

6930 at a place that the actor knows, or has reasonable cause to believe, is on or about

6931 school premises.

6932 (3)(a) ~~[Possession of a dangerous weapon on or about school premises]~~ Except as

6933 provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

6934 (b) ~~[Possession of a firearm or short barreled shotgun on or about school premises-]~~ A

6935 violation of Subsection (2) is a class A misdemeanor if the dangerous weapon

6936 possessed by the actor is a firearm.

6937 (4) This section does not apply if:

6938 (a) the actor is authorized to possess a firearm as described in Section 53-5-704,

6939 53-5-705, 76-10-511, or ~~[76-10-523]~~ 53-5a-108, or as otherwise authorized by law;

6940 (b) the actor is authorized to possess a firearm as described in Section 53-5-704.5, unless

6941 the actor is in a location where the actor is prohibited from carrying a firearm under

- 6942 Subsection 53-5-710(2);
- 6943 (c) the possession is approved by the responsible school administrator;
- 6944 (d) the item is present or to be used in connection with a lawful, approved activity and is
- 6945 in the possession or under the control of the actor responsible for the item's
- 6946 possession or use;
- 6947 (e) the actor is an armed school security guard as described in Section 53G-8-704; or
- 6948 (f) the possession is:
- 6949 (i) at the actor's place of residence or on the actor's property; or
- 6950 (ii) in any vehicle lawfully under the actor's control, other than a vehicle owned by
- 6951 the school or used by the school to transport students.

6952 (5) This section does not[-]:

- 6953 (a) prohibit prosecution of a more serious weapons offense that may occur on or about
- 6954 school premises;
- 6955 (b) prevent an actor from securely storing a firearm on the grounds of a school if the
- 6956 actor:
- 6957 (i) participates in:
- 6958 (A) the school guardian program created in Section 53-22-105; [and] or
- 6959 (B) the Educator-Protector Program created in Section 53-22-107; and
- 6960 (ii) complies with the requirements for securely storing the firearm described in
- 6961 Subsection 53-22-107(5)(a); or
- 6962 (c) prohibit the prosecution of possession of a dangerous weapon by a minor, as
- 6963 described in Section [76-10-509.4] 76-11-209, that occurs on or about school
- 6964 premises.

6965 Section 197. Section **76-11-205**, which is renumbered from Section 76-10-506 is renumbered

6966 and amended to read:

6967 ~~[76-10-506]~~ **76-11-205** . **Threatening with or using a dangerous weapon in a fight**

6968 **or a quarrel.**

6969 (1)(a) As used in this section:

- 6970 [(a)] (i) "Dangerous weapon" means an item that in the manner of its use or intended
- 6971 use is capable of causing death or serious bodily injury. The following factors
- 6972 shall be used in determining whether an item, object, or thing is a dangerous
- 6973 weapon:
- 6974 [(i)] (A) the character of the instrument, object, or thing;
- 6975 [(ii)] (B) the character of the wound produced, if any; and

6976 [(iii)] (C) the manner in which the instrument, object, or thing was exhibited or
6977 used.

6978 [(b)] (ii) "Threatening manner" does not include:

6979 [(i)] (A) the possession of a dangerous weapon, whether visible or concealed,
6980 without additional behavior which is threatening; or

6981 [(ii)] (B) informing another of the actor's possession of a deadly weapon to prevent
6982 what the actor reasonably perceives as a possible use of unlawful force by the
6983 other and the actor is not engaged in any activity described in Subsection
6984 76-2-402(3)(a).

6985 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
6986 section.

6987 (2) ~~[Except as otherwise provided in Section 76-2-402 and for an individual described in~~
6988 ~~Section 76-10-503, an individual who, in the presence of two or more individuals, and~~
6989 ~~not amounting to a violation of Section 76-5-103,]~~ An actor commits threatening with or
6990 using a dangerous weapon in a fight or a quarrel if the actor:

6991 (a) draws or exhibits a dangerous weapon in an angry and threatening manner; or

6992 (b) ~~[-]unlawfully uses a dangerous weapon in a fight or quarrel[- is guilty of a class A~~
6993 ~~misdemeanor].~~

6994 (3) A violation of Subsection (2) is a class A misdemeanor.

6995 (4) This section does not apply to:

6996 (a) ~~[-]an individual who, reasonably believing the action to be necessary in compliance~~
6997 ~~with Section 76-2-402, with purpose to prevent another's use of unlawful force:~~

6998 [(a)] (i) threatens the use of a dangerous weapon; or

6999 [(b)] (ii) draws or exhibits a dangerous weapon[-];

7000 [(4) This section does not apply to]

7001 (b) ~~[-]an individual listed in Subsections [76-10-523(1)(a) through (f)] 53-5a-108(1)(a)~~
7002 ~~through (f) in performance of the individual's duties; or~~

7003 (c) an individual who is a restricted person under Section 76-11-302 and may not
7004 possess a firearm in any manner or location and is subject to the penalties described
7005 in Part 3, Persons Restricted Regarding Dangerous Weapons.

7006 Section 198. Section **76-11-206**, which is renumbered from Section 76-10-507 is renumbered
7007 and amended to read:

7008 ~~[76-10-507]~~ **76-11-206 . Possession of a dangerous weapon with criminal intent.**

7009 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7010 ~~(2)~~ ~~[Every person having upon his person any]~~ An actor commits possession of a
 7011 dangerous weapon with criminal intent if the actor possesses a dangerous weapon with
 7012 the intent to use [it] the dangerous weapon to commit a criminal offense.

7013 ~~(3)~~ A violation of Subsection (2) is~~[guilty of]~~ a class A misdemeanor.

7014 Section 199. Section **76-11-207**, which is renumbered from Section 76-10-508 is renumbered
 7015 and amended to read:

7016 ~~[76-10-508]~~**76-11-207 . Improper discharging of a dangerous weapon.**

7017 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7018 ~~(2)~~ An actor commits improper discharging of a dangerous weapon if the actor discharges a
 7019 dangerous weapon:

7020 ~~[(a) An individual may not discharge a dangerous weapon or firearm:]~~

7021 ~~[(i)]~~ (a) from ~~[an automobile or other]~~ a vehicle;

7022 ~~[(ii)]~~ (b) from, upon, or across a highway;

7023 ~~[(iii)]~~ (c) at a road sign placed ~~[upon a highway of the]~~ on a state highway;

7024 ~~[(iv)]~~ (d) at communications equipment or property of public utilities including facilities,
 7025 lines, poles, or devices of transmission or distribution;

7026 ~~[(v)]~~ (e) at railroad equipment or facilities including a sign or signal;

7027 ~~[(vi)]~~ (f) within a Utah State Park building, designated camp or picnic sites, overlooks,
 7028 golf courses, boat ramps, and developed beaches; or

7029 ~~[(vii)]~~ (g) without written permission to discharge the dangerous weapon from the owner
 7030 or person in charge of the property within 600 feet of:

7031 ~~[(A)]~~ (i) a house, dwelling, or~~[any]~~other building; or

7032 ~~[(B)]~~ (ii) ~~[any]~~ a structure in which a domestic animal is kept or fed, including a barn,
 7033 poultry yard, corral, feeding pen, or stockyard.

7034 ~~[(b) It is a defense to any charge for violating this section that the individual being~~
 7035 ~~accused had actual permission of the owner or person in charge of the property at the~~
 7036 ~~time in question.]~~

7037 ~~[(2)]~~ (3) A violation of ~~[any provision]~~of Subsection ~~[(1)]~~ (2) is a class B misdemeanor.

7038 ~~[(3)]~~ (4) In addition to any other penalties, the court shall:

7039 (a) notify the Driver License Division of the conviction for purposes of any revocation,
 7040 denial, suspension, or disqualification of a driver license under Subsection
 7041 53-3-220(1)(a)(xi); and

7042 (b) specify in court at the time of sentencing the length of the revocation under
 7043 Subsection 53-3-225(1)(c).

7044 ~~[(4)]~~ (5) This section does not apply to an ~~[individual]~~ actor who:

7045 (a) discharges a firearm ~~[when that individual is]~~ in the lawful defense of ~~[self]~~ the actor
7046 or ~~[others]~~ other individuals;

7047 (b) is performing official duties as provided in Section 23A-5-202 and Subsections
7048 76-10-523(1)(a) through (f) and as otherwise provided by law; or

7049 (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

7050 (i) the discharge occurs at a firing range or training ground;

7051 (ii) at no time after the discharge does the projectile that is discharged cross over or
7052 stop at a location other than within the boundaries of the firing range or training
7053 ground described in Subsection ~~[(4)(e)(i);]~~ (5)(c)(i);

7054 (iii) the discharge is made as practice or training for a lawful purpose;

7055 (iv) the discharge and the location, time, and manner of the discharge are approved
7056 by the owner or operator of the firing range or training ground before the
7057 discharge; and

7058 (v) the discharge is not made in violation of Subsection ~~[(4)]~~ (2).

7059 (d) It is a defense to a charge for violating this section that the actor had actual
7060 permission of the person in charge of the property at the time the actor discharged the
7061 dangerous weapon as described in Subsection (2).

7062 Section 200. Section **76-11-208**, which is renumbered from Section 76-10-508.1 is renumbered
7063 and amended to read:

7064 ~~[76-10-508.1]~~ **76-11-208 . Felony discharge of a firearm.**

7065 (1)(a) As used in this section, "habitable structure" means the same as that term is
7066 defined in Section 76-6-101.

7067 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
7068 section.

7069 ~~[(4)]~~ (2) ~~[Except as provided under Subsection (2) or (3), an individual who discharges a~~
7070 ~~firearm is guilty of a third degree felony punishable by imprisonment for a term of not~~
7071 ~~less than three years nor more than five years]~~ An actor commits felony discharge of a
7072 firearm if:

7073 (a) the actor discharges a firearm in the direction of ~~[one or more individuals]~~ an
7074 individual, knowing or having reason to believe that ~~[any]~~ an individual may be
7075 endangered by the discharge of the firearm;

7076 (b) the actor, with intent to intimidate or harass another individual or with intent to
7077 damage a habitable structure~~[as defined in Section 76-6-101]~~, discharges a firearm in

- 7078 the direction of [~~any~~] an individual or habitable structure; or
- 7079 (c) the actor, with intent to intimidate or harass another individual, discharges a firearm
- 7080 in the direction of [~~any~~] a vehicle.
- 7081 [~~(2) A violation of Subsection (1) that causes bodily injury to any individual is a second~~
- 7082 ~~degree felony punishable by imprisonment for a term of not less than three years nor~~
- 7083 ~~more than 15 years.]~~
- 7084 [~~(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a~~
- 7085 ~~first degree felony.]~~
- 7086 (3)(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is
- 7087 a third degree felony punishable by a term of imprisonment of not less than three
- 7088 years nor more than five years.
- 7089 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes
- 7090 bodily injury to any individual is a second degree felony punishable by imprisonment
- 7091 for a term of not less than three years nor more than 15 years.
- 7092 (c) A violation of Subsection (2) that causes serious bodily injury to an individual is a
- 7093 first degree felony.
- 7094 (4) In addition to any other penalties for a violation of this section, the court shall:
- 7095 (a) notify the Driver License Division of the conviction for purposes of any revocation,
- 7096 denial, suspension, or disqualification of a driver license under Subsection
- 7097 53-3-220(1)(a)(xi); and
- 7098 (b) specify in court at the time of sentencing the length of the revocation under
- 7099 Subsection 53-3-225(1)(c).
- 7100 (5) This section does not apply to an [~~individual~~] actor:
- 7101 (a) who discharges a firearm [~~when that individual is~~] in the lawful defense of [~~self~~] the
- 7102 actor or [~~others~~] another individual;
- 7103 (b) who is performing official duties as provided in Section 23A-5-202 or Subsections [~~76-10-523(1)(a) through (f)~~] 53-5a-108(1)(a) through (f) or as otherwise authorized
- 7104 by law; or
- 7105 (c) who discharges a dangerous weapon or firearm from an automobile or other vehicle,
- 7106 if:
- 7107 (i) the discharge occurs at a firing range or training ground;
- 7108 (ii) at no time after the discharge does the projectile that is discharged cross over or
- 7109 stop at a location other than within the boundaries of the firing range or training
- 7110 ground described in Subsection (5)(c)(i);
- 7111

- 7112 (iii) the discharge is made as practice or training for a lawful purpose;
- 7113 (iv) the discharge and the location, time, and manner of the discharge are approved
- 7114 by the owner or operator of the firing range or training ground before the
- 7115 discharge; and
- 7116 (v) the discharge is not made in violation of Subsection ~~[(1)]~~ (2).
- 7117 Section 201. Section **76-11-209**, which is renumbered from Section 76-10-509.4 is renumbered
- 7118 and amended to read:
- 7119 **~~[76-10-509.4]~~76-11-209 . Possession of a dangerous weapon by a minor.**
- 7120 (1)(a) As used in this section, "responsible adult" means an individual:
- 7121 ~~[(a)]~~ (i) who is 18 years old or older; and
- 7122 ~~[(b)]~~ (ii) who may lawfully possess a dangerous weapon.
- 7123 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
- 7124 section.
- 7125 (2) An actor ~~[who is under 18 years old may not possess a dangerous weapon.]~~ commits
- 7126 possession of a dangerous weapon by a minor if the actor:
- 7127 (a) is under 18 years old; and
- 7128 (b) possesses a dangerous weapon.
- 7129 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:
- 7130 (i) a class B misdemeanor for a first offense; and
- 7131 (ii) a class A misdemeanor for each subsequent offense.
- 7132 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:
- 7133 (i) a handgun;
- 7134 (ii) a short barreled rifle;
- 7135 (iii) a short barreled shotgun;
- 7136 (iv) a fully automatic weapon; or
- 7137 (v) a machinegun firearm attachment.
- 7138 (4) For an actor who is younger than 14 years old, this section does not apply if the actor:
- 7139 (a) possesses a dangerous weapon;
- 7140 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
- 7141 (c) is accompanied by the actor's parent or guardian, or a responsible adult, while the
- 7142 actor has the dangerous weapon in the actor's possession; and
- 7143 (d) does not use the dangerous weapon in the commission of a crime.
- 7144 (5) For an actor who is 14 years old or older but younger than 18 years old, this section
- 7145 does not apply if the actor:

- 7146 (a) possesses a dangerous weapon;
- 7147 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
- 7148 and
- 7149 (c) does not use the dangerous weapon in the commission of a crime.
- 7150 (6) This section does not apply to the following minors who are otherwise complying with
- 7151 Subsection (4) or (5):
- 7152 (a) a minor who is a patron at an amusement park, pier, or similar location and is
- 7153 possessing a firearm to participate in lawfully operated target concessions if the
- 7154 firearm to be used is firmly chained or affixed to the counters;
- 7155 (b) a minor attending a hunter's safety course or a firearms safety course and possessing
- 7156 a weapon as part of the course;
- 7157 (c) a minor using a firearm at an established range or other area where the discharge of a
- 7158 firearm is not prohibited by state or local law;
- 7159 (d) a minor participating in an organized competition involving the use of a firearm, or
- 7160 practicing for the competition;
- 7161 (e) a minor who is on real property with the permission of the owner, licensee, or lessee
- 7162 of the property and who has the permission of a parent or legal guardian or the
- 7163 owner, licensee, or lessee to possess a firearm not otherwise in violation of law;
- 7164 (f) a minor who has a valid hunting license and is possessing a firearm to lawfully
- 7165 engage in hunting; or
- 7166 (g) a minor traveling to or from an activity described in Subsection (6)(a) through (f)
- 7167 with an unloaded firearm in the minor's possession.

7168 Section 202. Section **76-11-210**, which is renumbered from Section 76-10-509.5 is renumbered

7169 and amended to read:

7170 **[76-10-509.5] 76-11-210 . Providing an illegal weapon to a minor.**

- 7171 ~~[(1) Any person who provides a handgun to a minor when the possession of the handgun~~
- 7172 ~~by the minor is a violation of Section 76-10-509.4 is guilty of:]~~
- 7173 ~~[(a) a class B misdemeanor upon the first offense; and]~~
- 7174 ~~[(b) a class A misdemeanor for each subsequent offense.]~~
- 7175 ~~[(2) Any person who transfers in violation of applicable state or federal law a short~~
- 7176 ~~barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a~~
- 7177 ~~third-degree felony.]~~
- 7178 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 7179 (2) An actor commits providing an illegal weapon to a minor if:

- 7180 (a) the actor provides a handgun to a minor and the minor's possession of the handgun
7181 would be a violation of Section 76-11-209, Possession of a dangerous weapon by a
7182 minor; or
- 7183 (b) the actor transfers or provides, in violation of applicable state or federal law, a short
7184 barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.

7185 (3)(a) A violation of Subsection (2)(a) is:

- 7186 (i) a class B misdemeanor upon the first offense; and
7187 (ii) a class A misdemeanor for each subsequent offense.

7188 (b) A violation of Subsection (2)(b) is a third degree felony.

7189 Section 203. Section **76-11-211**, which is renumbered from Section 76-10-509.6 is renumbered
7190 and amended to read:

7191 **[76-10-509.6] 76-11-211 . Parent or guardian providing a firearm to a violent**
7192 **minor.**

7193 [(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or
7194 permit the possession of a firearm by, any minor who has been convicted of a violent
7195 felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in
7196 juvenile court for an offense which would constitute a violent felony if the minor were
7197 an adult.]

7198 [(2) Any person who violates this section is guilty of:

7199 [(a) a class A misdemeanor upon the first offense; and

7200 [(b) a third degree felony for each subsequent offense.]

7201 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7202 (2) An actor commits parent or guardian providing a firearm to a violent minor if:

7203 (a) the actor intentionally or knowingly provides a firearm to, or permits the possession
7204 of a firearm by, a minor;

7205 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian
7206 of the minor; and

7207 (c) the minor has previously been:

7208 (i) convicted of a violent felony; or

7209 (ii) adjudicated in juvenile court for an offense which would constitute a violent
7210 felony if the minor were an adult.

7211 (3) A violation of Subsection (2) is:

7212 (a) a class A misdemeanor upon the first offense; and

7213 (b) a third degree felony for each subsequent offense.

7214 Section 204. Section **76-11-212**, which is renumbered from Section 76-10-509.7 is renumbered
7215 and amended to read:

7216 ~~[76-10-509.7]~~ **76-11-212 . Parent or guardian knowing a minor is in possession of**
7217 **a dangerous weapon.**

7218 [~~Any parent or guardian of a minor who knows that the minor is in~~
7219 ~~possession of a dangerous weapon in violation of Section 76-10-509.4 and fails to~~
7220 ~~make reasonable efforts to remove the dangerous weapon from the minor's~~
7221 ~~possession is guilty of a class B misdemeanor.]~~

7222 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7223 (2) An actor is guilty of parent or guardian knowing a minor is in possession of a dangerous
7224 weapon if:

7225 (a) the actor knows a minor is in possession of a deadly weapon in violation of Section
7226 76-11-209, Possession of a dangerous weapon by a minor;

7227 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian
7228 of the minor; and

7229 (c) the actor fails to make reasonable efforts to remove the dangerous weapon from the
7230 minor's possession.

7231 (3) A violation of Subsection (2) is a class B misdemeanor.

7232 Section 205. Section **76-11-213**, which is renumbered from Section 76-10-509.9 is renumbered
7233 and amended to read:

7234 ~~[76-10-509.9]~~ **76-11-213 . Selling a firearm to a minor.**

7235 [~~(1) A person may not sell any firearm to a minor under 18 years of age unless the minor is~~
7236 ~~accompanied by a parent or guardian.]~~

7237 [~~(2) Any person who violates this section is guilty of a third degree felony.]~~

7238 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7239 (2) An actor commits selling a firearm to a minor if:

7240 (a) the actor sells a firearm to a minor; and

7241 (b) at the time the actor sells the weapon to minor, the minor is not accompanied by a
7242 parent of the minor or a legal guardian of the minor.

7243 (3) A violation of Subsection (2) is a third degree felony.

7244 Section 206. Section **76-11-214**, which is renumbered from Section 76-10-528 is renumbered
7245 and amended to read:

7246 ~~[76-10-528]~~ **76-11-214 . Carrying a dangerous weapon while under influence of**
7247 **alcohol or drugs.**

- 7248 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 7249 (2) ~~[It is a class B misdemeanor for an actor to carry]~~ An actor commits carrying a
- 7250 dangerous weapon while under the influence of alcohol or drugs if the actor:
- 7251 (a) carries a dangerous weapon; and
- 7252 (b) is under the influence of:
- 7253 ~~[(a)]~~ (i) alcohol as determined by the actor's blood or breath alcohol concentration in
- 7254 accordance with Subsections 41-6a-502(1)(a) through (c); or
- 7255 ~~[(b)]~~ (ii) a controlled substance as defined in Section 58-37-2.
- 7256 ~~[(2)]~~ (3) A violation of Subsection (2) is a class B misdemeanor.
- 7257 (4) This section does not apply to:
- 7258 (a) an actor carrying a dangerous weapon that is either securely encased, as defined in
- 7259 this part, or not within such close proximity and in such a manner that ~~[it]~~ the
- 7260 dangerous weapon can be retrieved and used as readily as if carried on the person;
- 7261 (b) an actor who uses or threatens to use force in compliance with Section 76-2-402;
- 7262 (c) an actor carrying a dangerous weapon in the actor's residence or the residence of
- 7263 another individual with the consent of the individual who is lawfully in possession of
- 7264 the residence;
- 7265 (d) an actor under the influence of cannabis or a cannabis product, as those terms are
- 7266 defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis product
- 7267 complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
- 7268 Cannabis; or
- 7269 (e) an actor who:
- 7270 (i) has a valid prescription for a controlled substance;
- 7271 (ii) takes the controlled substance described in Subsection ~~[(2)(e)(i)]~~ (4)(e)(i) as
- 7272 prescribed; and
- 7273 (iii) after taking the controlled substance, the actor:
- 7274 (A) is not a danger to the actor or another individual; or
- 7275 (B) is capable of safely handling a dangerous weapon.
- 7276 ~~[(3)]~~ (5) It is not a defense to prosecution under this section that the actor:
- 7277 (a) is licensed in the pursuit of wildlife of any kind; or
- 7278 (b) has a valid permit to carry a concealed firearm.

7279 Section 207. Section **76-11-215**, which is renumbered from Section 76-10-529 is renumbered

7280 and amended to read:

7281 ~~[76-10-529]~~ **76-11-215 . Possession of a dangerous weapon in an airport secure**

7282 **area -- Reporting requirements.**

7283 (1)(a) As used in this section:

7284 (i) "Airport authority" has the same meaning as defined in Section 72-10-102.

7285 (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary
7286 device" in Section 76-10-306.7287 (iii) "Law enforcement officer" means the same as that term is defined in Section
7288 53-13-103.7289 (b) ~~[Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section]~~ Terms
7290 defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.7291 ~~[(2)(a) Within a secure area of an airport established pursuant to this section, an actor,~~
7292 ~~including an actor licensed to carry a concealed firearm under Title 53, Chapter 5, Part~~
7293 ~~7, Concealed Firearm Act, is guilty of:]~~7294 ~~[(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or~~
7295 ~~other dangerous weapon;]~~7296 ~~[(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal~~
7297 ~~negligence possesses a firearm or other dangerous weapon; or]~~7298 ~~[(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells~~
7299 ~~an explosive, chemical, or incendiary device.]~~7300 ~~[(b) Subsection (2)(a) does not apply to:]~~7301 ~~[(i) individuals exempted under Section 76-10-523; and]~~7302 ~~[(ii) a member of the state or federal military forces while engaged in the performance of~~
7303 ~~the member's official duties.]~~7304 (2) Except as provided in Subsection (4), an actor commits possession of a dangerous
7305 weapon in an airport secure area if the actor, including an actor who has a concealed
7306 firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act:7307 (a) knowingly or intentionally possesses a dangerous weapon within the secure area of
7308 an airport established under Subsection (5); or7309 (b) recklessly or with criminal negligence possesses a dangerous weapon within the
7310 secure area of an airport established under Subsection (5).7311 (3)(a) A violation of Subsection (2)(a) is a class A misdemeanor.7312 (b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.7313 (4) Subsection (2) does not apply to:7314 (a) an individual exempted from certain weapons laws as described in Section
7315 53-5a-108; or

7316 (b) a member of the state or federal military forces while engaged in the performance of
7317 the member's official duties.

7318 ~~[(3)]~~ (5)(a) An airport authority, county, municipality, or other entity regulating an
7319 airport may:

7320 ~~[(a)]~~ (i) establish a secure area located beyond the main area where the public
7321 generally buys tickets, checks and retrieves luggage; and

7322 ~~[(b)]~~ (ii) use reasonable means, including mechanical, electronic, x-ray, or another
7323 device, to detect firearms, other dangerous weapons, or explosives concealed in
7324 baggage or upon the person of an individual attempting to enter the secure area.

7325 ~~[(4)]~~ (b) At least one notice shall be prominently displayed at each entrance to a secure
7326 area in which a firearm, other dangerous weapon, or explosive is restricted.

7327 (c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or
7328 incendiary device within the secure area of an airport commits a violation of Section
7329 76-15-210.

7330 ~~[(5)]~~ (6)(a) An actor who violates Subsection ~~[(2)(a)(ii)]~~ (2)(b) on a first offense may
7331 receive a written warning for the offense and may not receive a citation or any other
7332 form of punishment.

7333 (b) An actor who violates Subsection ~~[(2)(a)(ii)]~~ (2)(b) on a second or subsequent offense
7334 may receive a written warning or a citation.

7335 ~~[(6)]~~ (7)(a) Except as provided in Subsection ~~[(6)(d)]~~ (7)(d), if a law enforcement officer
7336 issues a citation to an actor for an infraction as a result of the actor's conduct
7337 described in Subsection ~~[(2)(a)(ii)]~~ (2)(b), or provides an oral or written warning for
7338 that conduct, the law enforcement officer shall:

7339 (i) if the law enforcement officer is able to confirm that the actor may lawfully
7340 possess the ~~[firearm or other]~~ dangerous weapon, allow the actor, at the actor's
7341 option, to:

7342 (A) temporarily surrender custody of the ~~[firearm or other]~~ dangerous weapon into
7343 the custody of the law enforcement agency so that the ~~[firearm or other]~~
7344 dangerous weapon may be retrieved by the actor at a later date; or

7345 (B) exit the secure area of the airport with the ~~[firearm or other]~~ dangerous
7346 weapon; or

7347 (ii) if the law enforcement officer is unable to confirm that the actor may lawfully
7348 possess the ~~[firearm or other]~~ dangerous weapon, or the airport authority under
7349 Subsection ~~[(6)(d)]~~ (7)(d) prohibits the procedure described in Subsection ~~[(6)(a)(i);]~~

7350 (7)(a)(i), take temporary custody of the [~~firearm or other~~] dangerous weapon so
7351 that the [~~firearm or other~~] dangerous weapon may be retrieved by the actor at a
7352 later date if legally permitted to do so.

7353 (b) If a law enforcement officer takes temporary custody of a [~~firearm or other~~]
7354 dangerous weapon under Subsection [~~(6)(a)~~] (7)(a):

7355 (i) at the time the [~~firearm or other~~] dangerous weapon is obtained from the actor, the
7356 law enforcement officer, or another law enforcement officer, or an employee who
7357 works in the secure area of the airport, shall provide the actor with written
7358 instructions on how, when, and where the actor may retrieve the actor's [~~firearm or~~
7359 ~~other~~] dangerous weapon; and

7360 (ii) within three business days from the time when the law enforcement officer
7361 receives the [~~firearm or other~~] dangerous weapon, the law enforcement agency
7362 shall determine whether the actor is legally permitted to possess the [~~firearm or~~
7363 ~~other~~] dangerous weapon, and if so, ensure that the [~~firearm or other~~] dangerous
7364 weapon is available for the actor to retrieve.

7365 (c) An unclaimed [~~firearm or other~~] dangerous weapon that is surrendered into the
7366 custody of a law enforcement agency under this Subsection (6) may be disposed of
7367 pursuant to Section 77-11d-105, disposition of unclaimed property.

7368 (d) An airport authority may implement a policy that prohibits the law enforcement
7369 agency with jurisdiction over the airport from utilizing the procedure described in
7370 Subsection [~~(6)(a)(i)~~] (7)(a)(i).

7371 [~~(7)~~] (8)(a) An actor's firearm that is confiscated based on a violation of Subsection [~~(2)(a)(i)~~] (2)(a) shall be returned to the actor in accordance with Subsection
7372 77-11a-402(1)(b)[-].

7374 (b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [~~(2)(a)(i)~~] (2)(a) is not subject to forfeiture if the actor may lawfully possess the
7375 firearm.

7377 (c) In a prosecution brought under this section, a prosecutor may not condition a plea on
7378 the forfeiture of a firearm.

7379 [~~(8)~~] (9) An airport authority, county, municipality, or other entity regulating an airport or
7380 with local jurisdiction over an airport may not:

7381 (a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local
7382 ordinance, or another state or local law or regulation for conduct described in
7383 Subsection [~~(2)(a)(ii)~~] (2)(b);

7384 (b) assess a civil penalty for conduct described in Subsection [(2)(a)(i) or (ii)] (2); or
 7385 (c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).
 7386 [(9)] (10) A law enforcement agency that issues a written warning, citation, or referral for
 7387 prosecution under this section shall record and report the information as required under
 7388 Section 53-25-103.

7389 Section 208. Section **76-11-216**, which is renumbered from Section 76-10-530 is renumbered
 7390 and amended to read:

7391 **[76-10-530]76-11-216 . Trespass with a firearm in a house of worship or a**
 7392 **private residence.**

7393 (1) ~~[A person, including a person licensed to carry a concealed firearm pursuant to Title 53,~~
 7394 ~~Chapter 5, Part 7, Concealed Firearm Act, after notice has been given as provided in~~
 7395 ~~Subsection (2) that firearms are prohibited, may not knowingly and intentionally:]~~

7396 [(a) transport a firearm into:]

7397 [(i) a house of worship; or]

7398 [(ii) a private residence; or]

7399 [(b) while in possession of a firearm, enter or remain in:]

7400 [(i) a house of worship; or]

7401 [(ii) a private residence.]

Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7402 (2) An actor, including an actor licensed to carry a concealed firearm pursuant to Title 53,
 7403 Chapter 5, Part 7, Concealed Firearm Act, commits trespass with a firearm in a house of
 7404 worship or a private residence if:

7405 (a) the actor has been given notice as described in Subsection (4) that firearms are
 7406 prohibited in a house or worship or a private residence; and

7407 (b) knowingly and intentionally:

7408 (i) transports a firearm into the house of worship or private residence; or

7409 (ii) while in possession of a firearm, enters or remains in the house of worship or
 7410 private residence.

7411 (3) A violation of Subsection (2) is an infraction.

7412 [(2)] (4) Notice that firearms are prohibited may be given by:

7413 (a) personal communication to the actor by:

7414 (i) the church or organization operating the house of worship;

7415 (ii) the owner, lessee, or person with lawful right of possession of the private
 7416 residence; or

- 7417 (iii) a person with authority to act for the person or entity in Subsections [(2)(a)(i)]
7418 (4)(a)(i) and (ii);
- 7419 (b) posting of signs reasonably likely to come to the attention of persons entering the
7420 house of worship or private residence;
- 7421 (c) announcement, by a person with authority to act for the church or organization
7422 operating the house of worship, in a regular congregational meeting in the house of
7423 worship;
- 7424 (d) publication in a bulletin, newsletter, worship program, or similar document generally
7425 circulated or available to the members of the congregation regularly meeting in the
7426 house of worship; or
- 7427 (e) publication:
- 7428 (i) in a newspaper of general circulation in the county in which the house of worship
7429 is located or the church or organization operating the house of worship has its
7430 principal office in this state; and
- 7431 (ii) as required in Section 45-1-101.
- 7432 [(3)] (5) A church or organization operating a house of worship and giving notice that
7433 firearms are prohibited may:
- 7434 (a) revoke the notice, with or without supersedure, by giving further notice in any
7435 manner provided in Subsection [(2)] (4); and
- 7436 (b) provide or allow exceptions to the prohibition as the church or organization
7437 considers advisable.
- 7438 [(4)] (6)(a)(i) Within 30 days of giving or revoking any notice pursuant to
7439 Subsection [(2)(e)] (4)(c), (d), or (e), a church or organization operating a house of
7440 worship shall notify the division on a form and in a manner as the division shall
7441 prescribe.
- 7442 (ii) The division shall post on [its] the division's website a list of the churches and
7443 organizations operating houses of worship who have given notice under
7444 Subsection [(4)(a)(i)] (6)(a)(i).
- 7445 (b) Any notice given pursuant to Subsection [(2)(e)] (4)(c), (d), or (e) shall remain in
7446 effect until revoked or for a period of one year from the date the notice was originally
7447 given, whichever occurs first.
- 7448 [(5)] (7) [~~Nothing in this section permits-~~] This section does not permit an owner who has
7449 granted the lawful right of possession to a renter or lessee to restrict the renter or lessee
7450 from lawfully possessing a firearm in the residence.

7451 [(6) A violation of this section is an infraction.]

7452 Section 209. Section **76-11-301** is enacted to read:

7453

Part 3. Persons Restricted Regarding Dangerous Weapons

7454 **76-11-301 . Definitions.**

7455 As used in this part:

7456 (1) "Adjudicated" means a judgment has been entered against a minor for an offense by a
7457 juvenile court under Section 80-6-701.

7458 (2) "Controlled substance" means the same as that term is defined in Section 58-37-2.

7459 (3)(a) "Dating relationship" means a romantic or intimate relationship between
7460 individuals.

7461 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary
7462 fraternization in a business or social context.

7463 (4) "Dealer" means a person who is:

7464 (a) licensed under 18 U.S.C. Sec. 923; and

7465 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm,
7466 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

7467 (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

7468 (6) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

7469 Section 210. Section **76-11-302**, which is renumbered from Section 76-10-503 is renumbered
7470 and amended to read:

7471 **[76-10-503]76-11-302 . Restrictions on possession, purchase, transfer, and**
7472 **ownership of dangerous weapons by certain persons -- Exceptions.**

7473 (1) For purposes of this section:

7474 (a) A Category I restricted person is a person who:

7475 (i) has been convicted of a violent felony;

7476 (ii) is on probation or parole for a felony;

7477 (iii) is on parole from secure care, as defined in Section 80-1-102;

7478 (iv) within the last 10 years has been adjudicated [~~under Section 80-6-701~~]for an
7479 offense which if committed by an adult would have been a violent felony[~~as~~
7480 ~~defined in Section 76-3-203.5~~];

7481 (v) is an alien who is illegally or unlawfully in the United States; or

7482 (vi) is on probation for a conviction of possessing:

7483 (A) a [~~substance classified in Section 58-37-4 as a~~]Schedule I or II controlled

- 7484 substance;
- 7485 (B) a controlled substance analog; or
- 7486 (C) a substance listed in Section 58-37-4.2.
- 7487 (b) A Category II restricted person is a person who:
- 7488 (i) has been convicted of:
- 7489 (A) a domestic violence offense that is a felony;
- 7490 (B) a felony that is not a domestic violence offense or a violent felony and within
- 7491 seven years after completing the sentence for the conviction, has been
- 7492 convicted of or charged with another felony or class A misdemeanor;
- 7493 (C) multiple felonies that are part of a single criminal episode and are not
- 7494 domestic violence offenses or violent felonies and within seven years after
- 7495 completing the sentence for the convictions, has been convicted of or charged
- 7496 with another felony or class A misdemeanor; or
- 7497 (D) multiple felonies that are not part of a single criminal episode;
- 7498 (ii)(A) within the last seven years has completed a sentence for:
- 7499 (I) a conviction for a felony that is not a domestic violence offense or a violent
- 7500 felony; or
- 7501 (II) convictions for multiple felonies that are part of a single criminal episode
- 7502 and are not domestic violence offenses or violent felonies; and
- 7503 (B) within the last seven years and after the completion of a sentence for a
- 7504 conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or
- 7505 charged with another felony or class A misdemeanor;
- 7506 (iii) within the last seven years has been adjudicated delinquent for an offense which
- 7507 if committed by an adult would have been a felony;
- 7508 (iv) is an unlawful user of a controlled substance~~[-as defined in Section 58-37-2];~~
- 7509 (v) is in possession of a dangerous weapon and is knowingly and intentionally in
- 7510 unlawful possession of a Schedule I or II controlled substance~~[-as defined in~~
- 7511 ~~Section 58-37-2];~~
- 7512 (vi) has been found not guilty by reason of insanity for a felony offense;
- 7513 (vii) has been found mentally incompetent to stand trial for a felony offense;
- 7514 (viii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 7515 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been
- 7516 committed to a mental institution;
- 7517 (ix) has been dishonorably discharged from the armed forces;

- 7518 (x) has renounced the individual's citizenship after having been a citizen of the
7519 United States;
- 7520 (xi) is a respondent or defendant subject to a protective order or child protective order
7521 that is issued after a hearing for which the respondent or defendant received actual
7522 notice and at which the respondent or defendant has an opportunity to participate,
7523 that restrains the respondent or defendant from harassing, stalking, threatening, or
7524 engaging in other conduct that would place an intimate partner, as defined in 18
7525 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily
7526 injury to the intimate partner or child of the intimate partner, and that:
- 7527 (A) includes a finding that the respondent or defendant represents a credible threat
7528 to the physical safety of an individual who meets the definition of an intimate
7529 partner in 18 U.S.C. Sec. 921 or the child of the individual; or
- 7530 (B) explicitly prohibits the use, attempted use, or threatened use of physical force
7531 that would reasonably be expected to cause bodily harm against an intimate
7532 partner or the child of an intimate partner; or
- 7533 (xii) except as provided in Subsection (1)(d), has been convicted of the commission
7534 or attempted commission of misdemeanor assault under Section 76-5-102 or
7535 aggravated assault under Section 76-5-103 against an individual:
- 7536 (A) who is a current or former spouse, parent, or guardian;
- 7537 (B) with whom the restricted person shares a child in common;
- 7538 (C) who is cohabitating or has cohabitated with the restricted person as a spouse,
7539 parent, or guardian;
- 7540 (D) involved in a dating relationship with the restricted person within the last five
7541 years; or
- 7542 (E) similarly situated to a spouse, parent, or guardian of the restricted person.
- 7543 (c)(i) As used in this section, a conviction of a felony or adjudication of delinquency
7544 for an offense which would be a felony if committed by an adult does not include:
- 7545 (A) a conviction or an adjudication under Section 80-6-701 for an offense
7546 pertaining to antitrust violations, unfair trade practices, restraint of trade, or
7547 other similar offenses relating to the regulation of business practices not
7548 involving theft or fraud; or
- 7549 (B) a conviction or an adjudication under Section 80-6-701 which, in accordance
7550 with the law of the jurisdiction in which the conviction or adjudication
7551 occurred, has been expunged, set aside, reduced to a misdemeanor by court

7552 order, pardoned or regarding which the person's civil rights have been restored
7553 unless the pardon, reduction, expungement, or restoration of civil rights
7554 expressly provides that the person may not ship, transport, possess, or receive
7555 firearms.

7556 (ii) As used in this section, a conviction for misdemeanor assault under Subsection
7557 (1)(b)(xii), does not include a conviction which, in accordance with the law of the
7558 jurisdiction in which the conviction occurred, has been expunged, set aside,
7559 reduced to an infraction by court order, pardoned, or regarding which the person's
7560 civil rights have been restored, unless the pardon, reduction, expungement, or
7561 restoration of civil rights expressly provides that the person may not ship,
7562 transport, possess, or receive firearms.

7563 (iii) It is the burden of the defendant in a criminal case to provide evidence that a
7564 conviction or an adjudication under Section 80-6-701 is subject to an exception
7565 provided in this Subsection (1)(c), after which it is the burden of the state to prove
7566 beyond a reasonable doubt that the conviction or the adjudication is not subject to
7567 that exception.

7568 (d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

7569 (i) five years have elapsed from the later of:

7570 (A) the day on which the conviction is entered;

7571 (B) the day on which the person is released from incarceration following the
7572 conviction; or

7573 (C) the day on which the person's probation for the conviction is successfully
7574 terminated;

7575 (ii) the person only has a single conviction for misdemeanor assault as described in
7576 Subsection (1)(b)(xii)(D); and

7577 (iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

7578 (2) A Category I restricted person who intentionally or knowingly agrees, consents, offers,
7579 or arranges to purchase, transfer, possess, use, or have under the person's custody or
7580 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has
7581 under the person's custody or control:

7582 (a) a firearm is guilty of a second degree felony; or

7583 (b) a dangerous weapon other than a firearm is guilty of a third degree felony.

7584 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
7585 possesses, uses, or has under the person's custody or control:

- 7586 (a) a firearm is guilty of a third degree felony; or
7587 (b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.
- 7588 (4) A person may be subject to the restrictions of both categories at the same time.
- 7589 (5) A Category I or Category II restricted person may not use an antique firearm for an
7590 activity regulated under Title 23A, Wildlife Resources Act.
- 7591 (6) If a higher penalty than is prescribed in this section is provided in another section for
7592 one who purchases, transfers, possesses, uses, or has under this custody or control a
7593 dangerous weapon, the penalties of that section control.
- 7594 (7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v)
7595 that the person was:
- 7596 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner for
7597 use of a member of the person's household or for administration to an animal owned
7598 by the person or a member of the person's household; or
7599 (b) otherwise authorized by law to possess the substance.
- 7600 (8)(a) It is an affirmative defense to transferring a firearm or other dangerous weapon
7601 by a person restricted under Subsection (2) or (3) that the firearm or dangerous
7602 weapon:
- 7603 (i) was possessed by the person or was under the person's custody or control before
7604 the person became a restricted person;
- 7605 (ii) was not used in or possessed during the commission of a crime or subject to
7606 disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized
7607 Property and Contraband;
- 7608 (iii) is not being held as evidence by a court or law enforcement agency;
- 7609 (iv) was transferred to a person not legally prohibited from possessing the weapon;
7610 and
- 7611 (v) unless a different time is ordered by the court, was transferred within 10 days of
7612 the person becoming a restricted person.
- 7613 (b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of
7614 a firearm or other dangerous weapon by a restricted person.
- 7615 (9)(a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous
7616 weapon to a person, knowing that the recipient is a person described in Subsection
7617 (1)(a) or (b).
- 7618 (b) A person who violates Subsection (9)(a) when the recipient is:
- 7619 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is

- 7620 guilty of a second degree felony;
- 7621 (ii) a person described in Subsection (1)(a) and the transaction involves a dangerous
7622 weapon other than a firearm, and the transferor has knowledge that the recipient
7623 intends to use the weapon for any unlawful purpose, is guilty of a third degree
7624 felony;
- 7625 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
7626 guilty of a third degree felony; or
- 7627 (iv) a person described in Subsection (1)(b) and the transaction involves a dangerous
7628 weapon other than a firearm, and the transferor has knowledge that the recipient
7629 intends to use the weapon for an unlawful purpose, is guilty of a class A
7630 misdemeanor.

- 7631 (10)(a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
7632 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon
7633 under circumstances which the person knows would be a violation of the law.
- 7634 (b) A person may not provide to a dealer or other person information that the person
7635 knows to be materially false information with intent to deceive the dealer or other
7636 person about the legality of a sale, transfer or other disposition of a firearm or
7637 dangerous weapon.
- 7638 (c) "Materially false information" means information that portrays an illegal transaction
7639 as legal or a legal transaction as illegal.
- 7640 (d) A person who violates this Subsection (10) is guilty of:
- 7641 (i) a third degree felony if the transaction involved a firearm; or
7642 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than
7643 a firearm.

- 7644 (11)(a) It is not a violation of Subsection (2) or (3) for an actor who is a restricted
7645 person to own, possess, or have under the actor's custody or control, archery
7646 equipment, including crossbows, for the purpose of lawful hunting and lawful target
7647 shooting.
- 7648 (b) Notwithstanding Subsection (11)(a), this section applies if the owning, possessing, or
7649 having under the actor's custody or control of archery equipment, including
7650 crossbows, is prohibited by:
- 7651 (i) a court, as a condition of pre-trial release or probation; or
7652 (ii) the Board of Pardons and Parole, as a condition of parole.

7653 Section 211. Section **76-11-309**, which is renumbered from Section 76-10-503.1 is renumbered

7654 and amended to read:

7655 ~~[76-10-503.1]~~ 76-11-309 . **Firearm restriction notification requirement for**
7656 **restricted persons.**

7657 (1) As used in this section:

7658 (a) "Peace officer" means an officer described Section 53-13-102.

7659 (b) "Possess" means actual physical possession, actual or purported ownership, or
7660 exercising control of an item.

7661 (c) "Restricted person" means an individual who is restricted from possessing,
7662 purchasing, transferring, or owning a firearm under Section ~~[76-10-503]~~ 76-11-302.

7663 (2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon
7664 conviction, cause the defendant to become a restricted person shall, before entering a
7665 plea before a court, sign an acknowledgment that states:

7666 (a) the defendant's attorney or the prosecuting attorney has informed the defendant:

7667 (i) that conviction of the charge will classify the defendant as a restricted person;

7668 (ii) that a restricted person may not possess a firearm; and

7669 (iii) of the criminal penalties associated with possession of a firearm by a restricted
7670 person of the same category the defendant will become upon entering a plea for
7671 the criminal charge; and

7672 (b) the defendant acknowledges and understands that, by pleading guilty or no contest to
7673 the criminal charge, the defendant:

7674 (i) will be a restricted person;

7675 (ii) upon conviction, shall forfeit possession of each firearm currently possessed by
7676 the defendant; and

7677 (iii) will be in violation of federal and state law if the defendant possesses a firearm.

7678 (3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment
7679 described in Subsection (2) to the court before the defendant's entry of a plea, if the
7680 defendant pleads guilty or no contest.

7681 (4) A defendant who is convicted by trial of a criminal charge resulting in the defendant
7682 becoming a restricted person shall, at the time of sentencing:

7683 (a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

7684 (i) that the defendant is a restricted person;

7685 (ii) that, as a restricted person, the defendant may not possess a firearm; and

7686 (iii) of the criminal penalties associated with possession of a firearm by a restricted
7687 person of the defendant's category; and

- 7688 (b) sign an acknowledgment in the presence of the court attesting that the defendant
7689 acknowledges and understands that the defendant:
- 7690 (i) is a restricted person;
- 7691 (ii) shall forfeit possession of each firearm; and
- 7692 (iii) will be in violation of federal and state law if the defendant possesses a firearm.
- 7693 (5) The prosecuting attorney and the defendant's attorney shall inform the court at the
7694 preliminary hearing if a charge filed against the defendant would qualify the defendant
7695 as a restricted person if the defendant is convicted of the charge.
- 7696 (6) The failure to inform or obtain a signed acknowledgment from the defendant may not
7697 render the plea invalid, form the basis for withdrawal of the plea, or create a basis to
7698 challenge a conviction or sentence.
- 7699 (7) An individual who becomes a restricted person as a result of being served with a pretrial
7700 protective order in accordance with Section 78B-7-803, a sentencing protective order in
7701 accordance with Section 77-36-5, or a continuous protective order in accordance with
7702 Section 77-36-5, shall, at the time of service of the protective order:
- 7703 (a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a
7704 peace officer is serving the protective order, the peace officer:
- 7705 (i) that the individual is a restricted person;
- 7706 (ii) that, as a restricted person, the individual may not possess a firearm; and
- 7707 (iii) of the criminal penalties associated with possession of a firearm by a restricted
7708 person of the individual's category; and
- 7709 (b) sign, in the presence of the court or, if a peace officer serves the protective order, in
7710 the presence of the peace officer, an acknowledgment contained within the protective
7711 order document attesting that the individual acknowledges and understands that the
7712 individual:
- 7713 (i) is a restricted person;
- 7714 (ii) is required to relinquish possession of each firearm;
- 7715 (iii) will be in violation of federal and state law if the individual possesses a firearm;
7716 and
- 7717 (iv) may be eligible for an affirmative defense to a state-law prosecution for
7718 possession of a firearm under Section [~~76-10-503~~] 76-11-302 if the individual
7719 lawfully transfers the individual's firearms within 10 days of becoming a restricted
7720 person.
- 7721 Section 212. Section **76-11-310**, which is renumbered from Section 76-10-532 is renumbered

7722 and amended to read:

7723 **[76-10-532]76-11-310 . Removal from National Instant Check System database**
7724 **for certain restricted persons.**

7725 (1) A person who is subject to the restrictions in Subsection [76-10-503(1)(b)(vi), (vii), or
7726 (viii)] 76-11-302(1)(b)(vi), (vii), or (viii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a
7727 commitment, finding, or adjudication that occurred in this state may petition the district
7728 court in the county in which the commitment, finding, or adjudication occurred to
7729 remove the disability imposed.

7730 (2) The petition shall be filed in the district court in the county where the commitment,
7731 finding, or adjudication occurred. The petition shall include:

7732 (a) a listing of facilities, with their addresses, where the petitioner has ever received
7733 mental health treatment;

7734 (b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain
7735 the petitioner's mental health records;

7736 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist
7737 occurring within 30 days prior to the filing of the petition, which shall include a
7738 statement regarding:

7739 (i) the nature of the commitment, finding, or adjudication that resulted in the
7740 restriction on the petitioner's ability to purchase or possess a dangerous weapon;

7741 (ii) the petitioner's previous and current mental health treatment;

7742 (iii) the petitioner's previous violent behavior, if any;

7743 (iv) the petitioner's current mental health medications and medication management;

7744 (v) the length of time the petitioner has been stable;

7745 (vi) external factors that may influence the petitioner's stability;

7746 (vii) the ability of the petitioner to maintain stability with or without medication; and

7747 (viii) whether the petitioner is dangerous to public safety; and

7748 (d) a copy of the petitioner's state and federal criminal history record.

7749 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case
7750 or, if the disability is not based on a criminal case, on the county or district attorney's
7751 office having jurisdiction where the petition was filed and the individual who filed the
7752 original action which resulted in the disability.

7753 (4)(a) The court shall schedule a hearing as soon as practicable[~~—The~~] in which the
7754 petitioner may present evidence and subpoena witnesses to appear at the hearing.[~~—~~]

7755 (b) The prosecuting, county attorney, or the individual who filed the original action

- 7756 which resulted in the disability may object to the petition and present evidence in
7757 support of the objection.
- 7758 (5) The court shall consider the following evidence:
- 7759 (a) the facts and circumstances that resulted in the commitment, finding, or adjudication;
- 7760 (b) the [person's] petitioner's mental health and criminal history records; and
- 7761 (c) the [person's] petitioner's reputation, including the testimony of character witnesses.
- 7762 (6) The court shall grant the relief if the court finds by clear and convincing evidence that:
- 7763 (a) the [person] petitioner is not a danger to the [person] petitioner or to [others] another
7764 individual;
- 7765 (b) the [person] petitioner is not likely to act in a manner dangerous to public safety; and
- 7766 (c) the requested relief would not be contrary to the public interest.
- 7767 (7) The court shall issue an order with its findings and send a copy to the bureau.
- 7768 (8)(a) The bureau, upon receipt of a court order removing a [person's] petitioner's
7769 disability under Subsection [76-10-503(1)(b)(viii)] 76-11-302(1)(b)(viii), shall send a
7770 copy of the court order to the National Instant Check System requesting removal of
7771 the [person's] petitioner's name from the database.[-]
- 7772 (b) In addition to the action described in Subsection (8)(a), if the [person] petitioner is
7773 listed in a state database utilized by the bureau to determine eligibility for the
7774 purchase or possession of a firearm or to obtain a concealed firearm permit, the
7775 bureau shall remove the petitioner's name or send a copy of the court's order to the
7776 agency responsible for the database for removal of the petitioner's name.
- 7777 (9) If the court denies the petition, the petitioner may not petition again for relief until at
7778 least two years after the date of the court's final order.
- 7779 (10) The petitioner may appeal a denial of the requested relief[-The] and the review on
7780 appeal shall be de novo.

7781 Section 213. Section **76-12-101** is enacted to read:

7782 **CHAPTER 12. OFFENSES RELATED TO PRIVACY,
INFORMATION, AND COMMUNICATION**

7784 **Part 1. General Provisions**

7785 **76-12-101 . Definitions.**

7786 Reserved.

7787 Section 214. Section **76-12-201** is enacted to read:

7788

Part 2. Electronic Communication Abuse

7789

76-12-201 . Definitions.

7790

As used in this part:

7791

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

7792

(b) "Adult" does not include an individual who is 18 years old and enrolled in high school.

7793

7794

(2)(a) "Electronic communication" means a communication by electronic,

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electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text.

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(b) "Electronic communication" does not include a broadcast transmission or a similar communication that is not targeted at a specific individual.

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(3) "Electronic communication device" includes a telephone, a facsimile machine,

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electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

7801

7802

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

7803

(b) "Minor" includes an individual who is 18 years old and enrolled in high school.

7804

Section 215. Section **76-12-202**, which is renumbered from Section 76-9-201 is renumbered and amended to read:

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7806

[76-9-201]76-12-202 . Electronic communication harassment.

7807

(1) [As used in this section:]

7808

[(a)(i) ~~"Adult" means an individual 18 years old or older.~~]

7809

[(ii) ~~"Adult" does not include an individual who is 18 years old and enrolled in high school.~~]

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[(b) ~~"Electronic communication" means a communication by electronic,~~

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~~electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at a specific individual.~~]

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[(c) ~~"Electronic communication device" includes a telephone, a facsimile machine,~~

7816

~~electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.~~]

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7818

[(d)(i) ~~"Minor" means an individual who is younger than 18 years old.~~]

7819

[(ii) ~~"Minor" includes an individual who is 18 years old and enrolled in high school.~~]

7820

[(e) ~~"Minor victim" means a minor who is a victim of a violation of Subsection (4).~~]

7821 [(f) "Personal identifying information" means the same as that term is defined in
7822 Section ~~76-6-1101.~~] Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201
7823 apply to this section

7824 (2) Except to the extent ~~[the person's]~~ an actor's conduct constitutes an offense under
7825 Section ~~[76-9-203]~~ 76-12-205, ~~[a person is guilty of]~~ an actor commits electronic
7826 communication harassment ~~[and subject to prosecution in the jurisdiction where the~~
7827 ~~communication originated or was received]~~ if, with intent to intimidate, abuse, threaten,
7828 harass, frighten, or disrupt the electronic communications of another, the ~~[person]~~ actor:
7829 (a)(i) makes repeated contact by means of electronic communications, regardless of
7830 whether a conversation ensues; or
7831 (ii) after the recipient has requested or informed the ~~[person]~~ actor not to contact the
7832 recipient, and the ~~[person]~~ actor repeatedly or continuously:
7833 (A) contacts the electronic communication device of the recipient; or
7834 (B) causes an electronic communication device of the recipient to ring or to
7835 receive other notification of attempted contact by means of electronic
7836 communication;
7837 (b) makes contact by means of electronic communication and insults, taunts, or
7838 challenges the recipient of the communication or any person at the receiving location
7839 in a manner likely to provoke a violent or disorderly response;
7840 (c) makes contact by means of electronic communication and threatens to inflict injury,
7841 physical harm, or damage to any person or the property of any person; or
7842 (d) causes disruption, jamming, or overload of an electronic communication system
7843 through excessive message traffic or other means utilizing an electronic
7844 communication device.

7845 ~~[(3) A person is guilty of electronic communication harassment if the person:]~~

7846 ~~[(a) electronically publishes, posts, or otherwise discloses personal identifying information~~
7847 ~~of another individual in a public online site or forum with the intent to abuse, threaten,~~
7848 ~~or disrupt the other individual's electronic communication and without the other~~
7849 ~~individual's permission; or]~~

7850 ~~[(b) sends a communication by electronic mail, instant message, or other similar means, if:]~~

7851 ~~[(i) the communication references personal identifying information of another individual;]~~

7852 ~~[(ii) the person sends the communication;]~~

7853 ~~[(A) without the individual's consent; and]~~

7854 ~~[(B) with the intent to cause a recipient of the communication to reasonably believe that~~
7855 ~~the individual authorized or sent the communication; and]~~
7856 ~~[(iii) with the intent to:]~~
7857 ~~[(A) cause an individual physical, emotional, or economic injury or damage; or]~~
7858 ~~[(B) defraud an individual.]~~
7859 ~~[(4) A person is guilty of electronic communication harassment if:]~~
7860 ~~[(a) the person:]~~
7861 ~~[(i) is an adult;]~~
7862 ~~[(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum~~
7863 ~~personal identifying information of a minor who is unrelated by blood, marriage, or~~
7864 ~~adoption to the person; and]~~
7865 ~~[(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that~~
7866 ~~performing the action described in Subsection (4)(a)(ii) will result in the minor being the~~
7867 ~~victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual;~~
7868 ~~and]~~
7869 ~~[(b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described in~~
7870 ~~Subsection (4)(a)(ii).]~~
7871 ~~[(5)]~~ ~~(3)(a)~~ Except as provided in Subsection ~~[(5)(b)]~~ ~~(3)(b)~~, a violation of Subsection (2) [
7872 ~~or (3)]~~ is a class B misdemeanor.
7873 (b) A second or subsequent violation of Subsection (2)~~[(or (3))]~~ is a class A misdemeanor.
7874 ~~[(c) A violation of Subsection (4) is a class A misdemeanor.]~~
7875 ~~[(6)]~~ ~~(4)(a)~~ Except as provided ~~[under]~~ in Subsection ~~[(6)(b)]~~ ~~(4)(b)~~, a criminal
7876 prosecution under this section does not affect an individual's right to bring a civil
7877 action for damages suffered as a result of the commission of an offense under this
7878 section.
7879 (b) This section does not create a civil cause of action based on electronic
7880 communications made for a legitimate business ~~[purposes]~~ purpose.
7881 ~~[(7)(a) A minor victim has a civil right of action against an actor who violates Subsection~~
7882 ~~(4).]~~
7883 ~~[(b) A minor victim who brings a successful civil action under Subsection (7)(a) is entitled~~
7884 ~~to recover from the actor:]~~
7885 ~~[(i) damages resulting from the violation of Subsection (4);]~~
7886 ~~[(ii) reasonable attorney fees; and]~~
7887 ~~[(iii) court costs.]~~

- 7888 (5) A violation of this section is subject to prosecution in the jurisdiction in which the
7889 electronic communication originated or was received.
- 7890 Section 216. Section **76-12-203** is enacted to read:
- 7891 **76-12-203 . Unlawful electronic disclosure of personal identifying information.**
- 7892 (1)(a) As used in this section, "personal identifying information" means the same as that
7893 term is defined in Section 76-6-1101.
- 7894 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
7895 section.
- 7896 (2) An actor commits unlawful electronic disclosure of personal identifying information if
7897 the actor:
- 7898 (a)(i) electronically publishes, posts, or otherwise discloses personal identifying
7899 information of another individual in a public online site or forum without the
7900 permission of the other individual; and
- 7901 (ii) undertakes the action described in Subsection (2)(a)(i) with the intent to abuse,
7902 threaten, or disrupt the other individual's electronic communication; or
- 7903 (b) sends a communication by electronic mail, instant message, or other similar means,
7904 if:
- 7905 (i) the communication references personal identifying information of another
7906 individual;
- 7907 (ii) the actor sends the communication:
- 7908 (A) without the individual's consent; and
- 7909 (B) with the intent to cause a recipient of the communication to reasonably believe
7910 that the individual authorized or sent the communication; and
- 7911 (iii) with the intent to:
- 7912 (A) cause an individual physical, emotional, or economic injury or damage; or
7913 (B) defraud an individual.
- 7914 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
7915 misdemeanor.
- 7916 (b) A second or subsequent violation of Subsection (2) is a class A misdemeanor.
- 7917 (4)(a) Except as provided in Subsection (4)(b), a criminal prosecution under this section
7918 does not affect an individual's right to bring a civil action for damages suffered as a
7919 result of the commission of an offense under this section.
- 7920 (b) This section does not create a civil cause of action based on an electronic
7921 communication made for a legitimate business purpose.

7922 Section 217. Section **76-12-204** is enacted to read:

7923 **76-12-204 . Unlawful electronic disclosure of a minor's personal information.**

7924 (1)(a) As used in this section:

7925 (i) "Minor victim" means a minor who is a victim of a violation of Subsection (2).

7926 (ii) "Personal identifying information" means the same as that term is defined in
7927 Section 76-6-1101.

7928 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
7929 section.

7930 (2) An actor commits unlawful electronic disclosure of a minor's personal information if:

7931 (a) the actor:

7932 (i) is an adult;

7933 (ii) electronically publishes, posts, or otherwise discloses in a public online site or
7934 forum personal identifying information of a minor who is unrelated by blood,
7935 marriage, or adoption to the actor; and

7936 (iii) knows of, but consciously disregards, a substantial and unjustifiable risk that
7937 performing the action described in Subsection (2)(a)(ii) will result in the minor
7938 being the victim of an offense described in Title 76, Chapter 5, Offenses Against
7939 the Individual; and

7940 (b) the minor described in Subsection (2)(a)(ii) is aware of the actor's action described in
7941 Subsection (2)(a)(ii).

7942 (3) A violation of Subsection (2) is a class A misdemeanor.

7943 (4)(a) Except as provided in Subsection (4)(b), a criminal prosecution under this section
7944 does not affect an individual's right to bring a civil action for damages suffered as a
7945 result of the commission of an offense under this section.

7946 (b) This section does not create a civil cause of action based on an electronic
7947 communication made for a legitimate business purpose.

7948 (5)(a) A minor victim has a civil right of action against an actor who violates
7949 Subsection (2).

7950 (b) A minor victim who brings a successful civil action under Subsection (5)(a) is
7951 entitled to recover from the actor:

7952 (i) damages resulting from the violation of Subsection (2);

7953 (ii) reasonable attorney fees; and

7954 (iii) court costs.

7955 Section 218. Section **76-12-205**, which is renumbered from Section 76-6-703.1 is renumbered

7956 and amended to read:

7957 ~~[76-6-703.1]~~**76-12-205 . Disclosure of personal information with intent to cause**
7958 **electronic communication harassment.**

7959 (1)(a) As used in this section~~[-"electronic-"]~~ :

7960 (i) "Adult" means an individual 18 years old or older.

7961 (ii) "Computer" means the same as that term is defined in Section 76-6-702.

7962 (iii) "Electronic communication harassment" means an offense under Section [
7963 76-9-201] 76-12-202, 76-12-203, or 76-12-204.

7964 (iv) "Identifying information" means the same as that term is defined in Section
7965 76-6-702.

7966 (v) "Interactive computer service" means the same as that term is defined in Section
7967 76-6-702.

7968 (vi) "Minor" means an individual who is younger than 18 years old.

7969 (vii) "Service provider" means the same as that term is defined in Section 76-6-702.

7970 (viii) "Software" means the same as that term is defined in Section 76-6-702.

7971 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and ~~[76-6-702]~~ 76-12-201 apply to
7972 this section.

7973 (2) An actor commits ~~[unlawful]~~disclosure of personal information with intent to cause
7974 electronic communication harassment if:

7975 (a) with intent that electronic communication harassment occur, the actor discloses or
7976 disseminates another person's identifying information with the expectation that others
7977 will further disseminate or use the person's identifying information; and

7978 (b) the disclosure or dissemination of the other person's identifying information results
7979 in electronic communication harassment.

7980 (3)(a) If the ~~[person]~~ individual whose identifying information is disseminated is an
7981 adult, a violation of Subsection (2) is:

7982 (i) a class B misdemeanor on the first offense;

7983 (ii) a class A misdemeanor on the second offense; or

7984 (iii) a third degree felony on a third or subsequent offense.

7985 (b) If the ~~[person]~~ individual whose identifying information is disseminated is a minor, a
7986 violation of Subsection (2) is:

7987 (i) a class A misdemeanor on the first offense; or

7988 (ii) a third degree felony on the second or subsequent offense.

7989 (4)(a) This section does not apply to an actor who provides information in conjunction

7990 with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act,
7991 or Title 67, Chapter 21, Utah Protection of Public Employees Act.
7992 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and ~~[nothing in~~
7993 ~~this section may be construed to]~~ does not impose liability or culpability on, an
7994 interactive computer service for content provided by another person.
7995 (c) This section does not affect, limit, or apply to any activity or conduct that is
7996 protected by the constitution or laws of this state, or by the constitution or laws of the
7997 United States.

7998 (5)(a) An interactive computer service ~~[is not guilty of violating this section]~~ does not
7999 commit a violation of Subsection (2) if an actor violates [this section] Subsection (2)
8000 using the interactive computer service and the interactive computer service did not
8001 knowingly assist the actor to commit the violation.

8002 (b) A service provider ~~[is not guilty of violating this section]~~ does not commit a violation
8003 of Subsection (2) for:

8004 (i) action taken in relation to a customer of the service provider, for a legitimate
8005 business purpose, to install software on, monitor, or interact with the customer's
8006 Internet or other network connection, service, or computer for network or
8007 computer security purposes, authentication, diagnostics, technical support,
8008 maintenance, repair, network management, updates of computer software or
8009 system firmware, or remote system management; or

8010 (ii) action taken, including scanning and removing computer software, to detect or
8011 prevent the following:

8012 (A) unauthorized or fraudulent use of a network, service, or computer software;

8013 (B) illegal activity; or

8014 (C) infringement of intellectual property rights.

8015 Section 219. Section **76-12-206**, which is renumbered from Section 76-9-203 is renumbered
8016 and amended to read:

8017 **[76-9-203]76-12-206 . Unlawful online impersonation.**

8018 (1)(a) As used in this section:

8019 ~~[(a)]~~ (i) "Commercial social networking website" means a person who operates a
8020 website that allows a person to register as a user for the purpose of:

8021 ~~[(i)]~~ (A) establishing a personal relationship with one or more other users through
8022 direct or real time communication with the other user; or

8023 ~~[(ii)]~~ (B) the creation of ~~[web pages or profiles]~~ a web page or a profile available to

- 8024 the public or to other users.
- 8025 ~~[(b)]~~ (ii) "Commercial social networking website" does not include an electronic mail
8026 program or a message board program.
- 8027 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
8028 section.
- 8029 (2) ~~[It is a criminal offense for a person to use-]~~ An actor commits unlawful online
8030 impersonation if the actor uses the name or persona of an individual:
- 8031 (a) without the individual's consent;
- 8032 (b)(i) to create a web page on a commercial social networking website or other
8033 website; or
- 8034 (ii) to post or send a message on or through a commercial social networking website
8035 or other website, other than on or through an electronic mail program or message
8036 board program;
- 8037 (c) with the intent to cause an individual to reasonably believe that the individual whose
8038 name or persona is used authorized or performed the applicable action described in
8039 Subsection (2)(b); and
- 8040 (d) with the intent to harm, defraud, intimidate, or threaten any individual.
- 8041 (3)(a) ~~[An offense under this section is-]~~ Except as provided in Subsection (3)(b), a
8042 violation of Subsection (2) is a class A misdemeanor.
- 8043 (b) A second or subsequent offense ~~[under this section]~~ of Subsection (2) is a third
8044 degree felony.
- 8045 (4) It is a defense to prosecution under this section that the ~~[person]~~ actor is one of the
8046 following entities or that the ~~[person's]~~ actor's conduct consisted solely of action taken as
8047 an employee of one of the following entities:
- 8048 (a) a commercial social networking website;
- 8049 (b) an Internet service provider;
- 8050 (c) an interactive computer service, as defined in 47 U.S.C. Sec. 230;
- 8051 (d) a telecommunications provider, as defined in Section 10-1-402;
- 8052 (e) a cable television service;
- 8053 (f) an entity that provides cable television service, as defined in Section 10-18-102; or
- 8054 (g) a law enforcement agency engaged in lawful practices.
- 8055 Section 220. Section **76-12-207**, which is renumbered from Section 76-10-1802 is renumbered
8056 and amended to read:
- 8057 **[76-10-1802]76-12-207 . Misrepresentation of a call or text communication**

8058 **identification.**

8059 (1)(a) As used in this section:

8060 [(a)] (i) "Caller or text message identification information" means information
8061 provided by a caller identification service or text message service regarding the
8062 telephone number or other information regarding the origination of a call or text
8063 message made using a telecommunications service or VoIP voice service.

8064 [(b)] (ii) "Caller or text message identification service" means [any] a service or device
8065 designed to provide the user of the service or device with the telephone number
8066 of, or other information regarding, the origination of a call or text message made
8067 using a telecommunications service or VoIP voice service, including automatic
8068 number identification services.

8069 [(c)] (iii) "Text message":

8070 [(d)] (A) means a real-time or near real-time message consisting of text, images,
8071 sounds, or other information transmitted from or received by a device
8072 identified by a telephone number; and

8073 [(e)] (B) does not include a real-time, two-way voice or video communication.

8074 [(f)] (iv) "VoIP" means a technology that allows telephone calls to be made over
8075 computer networks, including the Internet.

8076 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
8077 section.

8078 (2) [It is unlawful for any person or individual] An actor commits misrepresentation of a call
8079 or text communication identification if the actor, in connection with [any] a
8080 telecommunications service or VoIP voice service, [to-]knowingly [cause-any] causes a
8081 caller identification service or text message service to transmit false, misleading, or
8082 inaccurate caller or text message identification information:

8083 (a) with the intent to harm the recipient of the call or text message; or

8084 (b) to a public safety answering point when reporting an emergency.

8085 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C
8086 misdemeanor.

8087 (b) A violation of Subsection (2) is a class B misdemeanor on a second or subsequent
8088 violation.

8089 (c) Each separate call or text message is a violation of this section.

8090 [(3)] (4) This section does not prevent or restrict [any person or individual] a person from
8091 blocking the capability of [any] a caller or text message identification service to transmit

8092 caller or text message identification information.

8093 [(4)] (5) The following are exempt from this section:

8094 (a) the lawful investigative, protective, or intelligence activity of a law enforcement
8095 agency; and

8096 (b) a court order that specifically authorizes the use of caller or text message
8097 identification manipulation.

8098 [(5) Each separate call or text message transmitted in violation of this section is:]

8099 [(a) for a first violation, a class C misdemeanor; and]

8100 [(b) for a second or subsequent violation, a class B misdemeanor.]

8101 (6) [Violations-] A violation of this section may be enforced in a civil action initiated by the
8102 recipient of a call, message, or text message made in violation of this section, a criminal
8103 action initiated by a prosecuting attorney, or both.

8104 (7) This section does not apply to an Internet service provider or hosting company, a
8105 provider of public telecommunications services, or a text message service by reason of
8106 the fact that the Internet service provider, hosting company, text message service, or
8107 provider of public telecommunications services:

8108 (a) transmits, routes, or provides connections for material without selecting the material;

8109 (b) stores or delivers the material at the direction of a user; or

8110 (c) provides a caller or text message identification service.

8111 Section 221. Section **76-12-301**, which is renumbered from Section 76-9-401 is renumbered
8112 and amended to read:

8113

Part 3. Privacy Offenses

8114 ~~[76-9-401]~~**76-12-301 . Definitions.**

8115 For purposes of this part:

8116 (1) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral
8117 communication of another without the consent of at least one party thereto by means of
8118 an electronic, mechanical, or other device.

8119 (2) "Private place" means a place where one may reasonably expect to be safe from casual
8120 or hostile intrusion or surveillance.

8121 [(2) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral
8122 communication of others without the consent of at least one party thereto by means of
8123 any electronic, mechanical, or other device.]

8124 (3) "Public" includes any professional or social group of which the victim of a defamation

8125 is a member.

8126 Section 222. Section **76-12-302**, which is renumbered from Section 76-9-402 is renumbered
8127 and amended to read:

8128 **[76-9-402]76-12-302 . Unlawful privacy violation.**

8129 (1)(a) For purposes of this section, "expectation of privacy" means a property owner's[A
8130 property owner has an] expectation of privacy described in Subsection (6). [regarding
8131 characteristics, data, or information pertaining to the owner's property that]:

8132 [(i) is not immediately apparent through routine visual observation of the property;
8133 and]

8134 [(ii) requires ground-penetrating technology to detect, observe, measure, map, or
8135 otherwise capture information or data about the property or characteristics of the
8136 property.];

8137 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
8138 section.

8139 (2) [A person is guilty of-] An actor commits unlawful privacy violation if, except as
8140 authorized by law, the [person] actor:

8141 (a) trespasses on property with intent to subject anyone to eavesdropping or other
8142 surveillance in a private place;

8143 (b) installs, or uses after unauthorized installation in a private place, without the consent
8144 of the person or persons entitled to privacy in the private place, [any] a device for
8145 observing, photographing, hearing, recording, amplifying, or broadcasting sounds or
8146 events in the private place;

8147 (c) installs or uses outside of a private place a device for observing, photographing,
8148 hearing, recording, amplifying, or broadcasting sounds or events originating in the
8149 private place [which] that would not ordinarily be audible, visible, or comprehensible
8150 outside the private place, without the consent of the person or persons entitled to
8151 privacy in the private place; or

8152 (d) uses ground-penetrating technology, without the consent of the property owner, to
8153 detect, observe, measure, map, or otherwise capture information or data about the
8154 property or characteristics of the property of another for which the property owner
8155 has an expectation of privacy[~~as described in Subsection (1)].~~

8156 (3) A violation of Subsection (2) is a class B misdemeanor.

8157 (4) A court may order an actor who commits a violation of Subsection (2) to remove or
8158 destroy any data collected by the actor in the commission of the violation of Subsection

- 8159 (2).
- 8160 (5) ~~[A person]~~ An actor is not guilty of a violation of this section if:
- 8161 (a) the device used is an unmanned aircraft;
- 8162 (b) the ~~[person]~~ actor is operating the unmanned aircraft for legitimate commercial or
- 8163 educational purposes in a manner consistent with applicable Federal Aviation
- 8164 Administration rules, exemptions, or other authorizations; and
- 8165 (c) any conduct described in Subsection (2) that occurs via the unmanned aircraft is
- 8166 solely incidental to the lawful commercial or educational use of the unmanned
- 8167 aircraft.
- 8168 ~~[(4) For a person who commits a violation of Subsection (2), a court may order the person~~
- 8169 ~~to remove and destroy any data collected by the person in the commission of the~~
- 8170 ~~violation of Subsection (2).]~~
- 8171 ~~[(5) Privacy violation is a class B misdemeanor.]~~
- 8172 (6) A property owner has an expectation of property privacy regarding characteristics, data,
- 8173 or information pertaining to the owner's property that:
- 8174 (a) is not immediately apparent through routine visual observation of the property; and
- 8175 (b) requires ground-penetrating technology to detect, observe, measure, map, or
- 8176 otherwise capture information or data about the property or characteristics of the
- 8177 property.
- 8178 ~~[(6)]~~ (7)(a) This section does not apply to lawful practices of:
- 8179 (i) a law enforcement agency; or
- 8180 (ii) another government entity.
- 8181 (b) Subsection (2)(d) does not apply to a land surveyor if:
- 8182 (i) the land surveyor is performing a survey service in good faith pursuant to a bona
- 8183 fide contract; and
- 8184 (ii) for any data pertaining to property not owned by a party to the contract described
- 8185 in Subsection ~~[(6)(b)(i)]~~ (7)(b)(i) that is captured incidentally by the land
- 8186 surveyor, the land surveyor:
- 8187 (A) does not share, publish, sell, or distribute any incidentally captured data
- 8188 pertaining to property that is not relevant to the contract described in
- 8189 Subsection ~~[(6)(b)(i)]~~ (7)(b)(i); and
- 8190 (B) upon completion of the contract, deletes or destroys any data pertaining to
- 8191 property that is not the subject of the contract.
- 8192 (8)(a) A person, or the heirs of a deceased person, who has been injured by a violation

- 8193 of this section may bring an action against the actor who committed the violation.
- 8194 (b) If in the action described in Subsection (8)(a) the court finds the defendant is
- 8195 violating or has violated any of the provisions of this section, the court shall enjoin
- 8196 the defendant from a continued violation.
- 8197 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
- 8198 damages are alleged and proved, the plaintiff in the action is entitled to recover from
- 8199 the defendant the actual damages sustained, if any, in addition to injunctive relief.
- 8200 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
- 8201 award of reasonable attorney fees.
- 8202 (e) Exemplary damages may be awarded when the violation is found to be malicious.

8203 Section 223. Section **76-12-303**, which is renumbered from Section 76-9-403 is renumbered

8204 and amended to read:

8205 **[76-9-403] 76-12-303 . Unlawful interception or disclosure of a private**

8206 **communication.**

8207 (1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

8208 (2) [A person commits communication abuse if, except as authorized by law, he] An actor

8209 commits unlawful interception or disclosure of a private communication if, except as

8210 authorized by law, the actor:

8211 (a) [Intercepts] intercepts, without the consent of the sender or receiver, a message by

8212 telephone, telegraph, letter, or other means of communicating privately; [this

8213 paragraph does not extend to:] or

8214 [(i) Overhearing of messages through a regularly installed instrument on a telephone

8215 party line or on an extension; or]

8216 [(ii) Interception by the telephone company or subscriber incident to enforcement of

8217 regulations limiting use of the facilities or to other normal operation and use; or]

8218 (b) [Divulges-] divulges, without consent of the sender or receiver, the existence or

8219 contents of [any such] a message described in Subsection (2)(a), if the actor:

8220 (i) knows that the message described in Subsection (2)(a) was illegally intercepted;

8221 or

8222 (ii) [if he-]learned of the message described in Subsection (2)(a) in the course of

8223 employment with an agency engaged in [transmitting it] the transmission of the

8224 message.

8225 [(2)] (3) [Communication abuse-] A violation of Subsection (2) is a class B misdemeanor.

8226 (4) Subsection (2)(a) does not apply to:

8227 (a) overhearing a message through a regularly installed instrument on a telephone party
8228 line or on an extension; or

8229 (b) intercepting a message by a telephone company or subscriber incident to
8230 enforcement of regulations limiting use of the facilities or to other normal operation
8231 and use.

8232 (5)(a) A person, or the heirs of a deceased person, who has been injured by a violation
8233 of this section may bring an action against the actor who committed the violation.

8234 (b) If in the action described in Subsection (5)(a) the court finds the defendant is
8235 violating or has violated any of the provisions of this section, the court shall enjoin
8236 the defendant from a continued violation.

8237 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
8238 damages are alleged and proved, the plaintiff in the action is entitled to recover from
8239 the defendant the actual damages sustained, if any, in addition to injunctive relief.

8240 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
8241 award of reasonable attorney fees.

8242 (e) Exemplary damages may be awarded when the violation is found to be malicious.

8243 Section 224. Section **76-12-304**, which is renumbered from Section 76-9-407 is renumbered
8244 and amended to read:

8245 **[76-9-407] 76-12-304 . Unlawful use of another's personal identity in an**
8246 **advertisement.**

8247 (1) ~~[The definitions in Section-]~~ Terms defined in Sections 45-3-2, 76-1-101.5, 76-12-101,
8248 and 76-12-301 apply to this section.

8249 (2) ~~[Any person is guilty of a class B misdemeanor who-]~~ An actor commits unlawful use of
8250 another's personal identity in an advertisement if the actor knowingly or intentionally
8251 causes the publication of an advertisement in which the personal identity of an
8252 individual is used in a manner [which] that expresses or implies that the individual
8253 approves, endorses, has endorsed, or will endorse the specific subject matter of the
8254 advertisement without the consent for such use by the individual.

8255 (3) A violation of Subsection (2) is a class B misdemeanor.

8256 ~~[(3)]~~ (4) It is an affirmative defense that the [person-causing] actor who caused the
8257 publication of the advertisement reasonably believed that the [person] individual whose
8258 personal identity was to be used had consented to [its] the use of the individual's personal
8259 identity.

8260 ~~[(4)]~~ (5)(a) Upon conviction of an offense under this section, unless waived by the

8261 victim, the court shall order that, within 30 days of the conviction, the [person] actor
8262 convicted shall issue a public apology or retraction to whomever received the
8263 advertisement.

8264 (b) The apology or retraction described in Subsection (5)(a) shall be of similar size and
8265 placement as the original advertisement.

8266 [(5)] (6) Nothing in this section prohibits a civil action under Title 45, Chapter 3, Abuse of
8267 Personal Identity Act.

8268 (7)(a) A person, or the heirs of a deceased person, who has been injured by a violation
8269 of this section may bring an action against the actor who committed the violation.

8270 (b) If in the action described in Subsection (7)(a) the court finds the defendant is
8271 violating or has violated any of the provisions of this section, the court shall enjoin
8272 the defendant from a continued violation.

8273 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
8274 damages are alleged and proved, the plaintiff in the action is entitled to recover from
8275 the defendant the actual damages sustained, if any, in addition to injunctive relief.

8276 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
8277 award of reasonable attorney fees.

8278 (e) Exemplary damages may be awarded when the violation is found to be malicious.

8279 Section 225. Section **76-12-305**, which is renumbered from Section 76-9-408 is renumbered
8280 and amended to read:

8281 **[76-9-408]76-12-305 . Unlawful installation of a tracking device.**

8282 (1)(a) As used in this section:

8283 [(a)] (i) "Motor vehicle" means the same as that term is defined in Subsection
8284 41-12a-103(4).

8285 [(b)] (ii) "Private investigator" means an individual who is:

8286 [(i)] (A) licensed as a private investigator under Title 53, Chapter 9, Private
8287 Investigator Regulation Act; and

8288 [(ii)] (B) acting in the capacity of a private investigator.

8289 [(c)] (iii) "Protective order" means a protective order, stalking injunction, or
8290 restraining order issued by a court of any jurisdiction.

8291 [(d)] (iv)[(i)] (A) "Tracking device" means a device used for the primary purpose
8292 of revealing the device's location or movement by the transmission or
8293 recording of an electronic signal.

8294 [(ii)] (B) "Tracking device" does not include location technology installed on a

- 8295 vehicle by the vehicle manufacturer or a commercial vehicle dealer that
8296 transmits electronic signals for the purpose of data collection, if the data
8297 collection is anonymized.
- 8298 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
8299 section.
- 8300 (2) Except as provided in Subsection [~~(3)~~, a person is guilty of] (4), an actor commits
8301 unlawful installation of a tracking device if the [person] actor knowingly installs, or
8302 directs another to install, a tracking device on a motor vehicle owned or leased by
8303 another person, without the permission of the owner or lessee of the vehicle.
- 8304 (3) A violation of Subsection (2) is a class A misdemeanor.
- 8305 [~~(3)~~] (4) [A person is not guilty of unlawful installation of a tracking device] an actor does
8306 not commit a violation of Subsection (2) if the [person] actor:
- 8307 (a)(i) is a licensed private investigator installing the tracking device for a legitimate
8308 business purpose; and
- 8309 (ii) installs the tracking device on a motor vehicle that is not:
- 8310 (A) owned or leased by an individual under the protection of a protective order; or
8311 (B) operated by an individual under the protection of a protective order who
8312 resides with, or is an immediate family member of, the owner or lessee of the
8313 motor vehicle; or
- 8314 (b) installs the tracking device pursuant to a court order.
- 8315 [~~(4) Unlawful installation of a tracking device is a class A misdemeanor.]~~
- 8316 (5) This section does not apply to a peace officer, acting in the peace officer's official
8317 capacity, who installs a tracking device on a motor vehicle in the course of a criminal
8318 investigation or pursuant to a court order.
- 8319 (6) Before installing a tracking device on a motor vehicle under Subsection [~~(3)~~] (4), a
8320 private investigator shall request confirmation from a state entity with access to updated
8321 protective order records, that:
- 8322 (a) the owner or lessee of the vehicle is not under the protection of a protective order; and
8323 (b) an individual who resides with, or is an immediate family member of, the owner or
8324 lessee of the motor vehicle is not under the protection of a protective order.
- 8325 (7) On request from a licensed private investigator, a state entity, including a law
8326 enforcement agency, with access to protective order records shall confirm or deny the
8327 existence of a protective order, disclosing only whether an individual named by the
8328 private investigator is under the protection of a protective order issued in any

8329 jurisdiction.

8330 (8) A private investigator may not disclose the information obtained under Subsection (7) to
8331 any person, except as permitted by law.

8332 (9) On request from the Bureau of Criminal Identification, a private investigator who
8333 installs a tracking device on a motor vehicle shall disclose the purpose of the tracking
8334 device to the Bureau of Criminal Identification.

8335 (10)(a) A person, or the heirs of a deceased person, who has been injured by a violation
8336 of this section may bring an action against the actor who committed the violation.

8337 (b) If in the action described in Subsection (10)(a) the court finds the defendant is
8338 violating or has violated any of the provisions of this section, the court shall enjoin
8339 the defendant from a continued violation.

8340 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
8341 damages are alleged and proved, the plaintiff in the action is entitled to recover from
8342 the defendant the actual damages sustained, if any, in addition to injunctive relief.

8343 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
8344 award of reasonable attorney fees.

8345 (e) Exemplary damages may be awarded when the violation is found to be malicious.
8346 Section 226. Section **76-12-306** is enacted to read:

8347 **76-12-306 . Voyeurism.**

8348 (1)(a) As used in this section, "sex-designated privacy space" means the same as that
8349 term is defined in 76-12-309.

8350 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
8351 section.

8352 (2) An actor commits voyeurism if:

8353 (a) the actor views, or attempts to view, an individual, with or without the use of an
8354 instrumentality:

8355 (i) with the intent of viewing any portion of the individual's body regarding which the
8356 individual has a reasonable expectation of privacy, whether or not that portion of
8357 the body is covered with clothing;

8358 (ii) without the knowledge or consent of the individual; and

8359 (iii) under circumstances in which the individual has a reasonable expectation of
8360 privacy; and

8361 (b) the actor's conduct described in Subsection (2)(a) does not amount to a violation of
8362 Section 76-12-307, Recorded or photographed voyeurism.

8363 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
 8364 misdemeanor.

8365 (b) A violation of Subsection (2) is a class A misdemeanor if the violation is committed:

8366 (i) against a child under 14 years old;

8367 (ii) in a sex-designated privacy space that is not designated for individuals of the
 8368 actor's sex; or

8369 (iii) while also committing the offense of:

8370 (A) criminal trespass in a sex-designated changing room under Subsection
 8371 76-6-206(2)(d);

8372 (B) lewdness under Section 76-5-419;

8373 (C) lewdness involving a child under Section 76-5-420; or

8374 (D) loitering in a privacy space under Section 76-12-309.

8375 (4) For purposes of this section, an individual has a reasonable expectation of privacy
 8376 within a public restroom.

8377 Section 227. Section **76-12-307**, which is renumbered from Section 76-9-702.7 is renumbered
 8378 and amended to read:

8379 **[76-9-702.7] 76-12-307 . Recorded or photographed voyeurism.**

8380 (1)(a) As used in this section, "sex-designated privacy space" means the same as that
 8381 term is defined in 76-12-309.

8382 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
 8383 section.

8384 (2) ~~[A person is guilty of voyeurism who]~~ An actor commits recorded or photographed
 8385 voyeurism if the actor intentionally uses any type of technology to secretly or

8386 surreptitiously record, by video, photograph, or other means, an individual:

8387 (a) for the purpose of viewing any portion of the individual's body regarding which the
 8388 individual has a reasonable expectation of privacy, whether or not that portion of the
 8389 body is covered with clothing;

8390 (b) without the knowledge or consent of the individual; and

8391 (c) under circumstances in which the individual has a reasonable expectation of privacy.

8392 ~~[(2)]~~ (3)(a) Except as provided in Subsection ~~[(2)(b)]~~ (3)(b), a violation of Subsection [
 8393 ~~(1)]~~ (2) is a class A misdemeanor.

8394 (b) ~~[The following is a]~~ A violation of Subsection (2) is a third degree felony if the
 8395 violation is committed:

8396 (i) ~~[a violation of Subsection (1) committed]~~ against a child under 14 years[~~-of age~~]

- 8397 old;
- 8398 (ii) in a sex-designated privacy space that is not designated for individuals of the
- 8399 actor's sex; or
- 8400 ~~[(ii)]~~ (iii) [a violation of Subsection (1) committed] while also committing the offense
- 8401 of:
- 8402 (A) criminal trespass in a sex-designated changing room under Subsection
- 8403 76-6-206(2)(d);
- 8404 (B) lewdness under Section ~~[76-9-702]~~ 76-5-419;
- 8405 (C) lewdness involving a child under Section ~~[76-9-702.5]~~ 76-5-420; or
- 8406 (D) loitering in a privacy space under Section ~~[76-9-702.8; or]~~ 76-12-309.
- 8407 ~~[(iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in~~
- 8408 ~~Section 76-9-702.8, that is not designated for individuals of the actor's sex.]~~
- 8409 ~~[(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital~~
- 8410 ~~format, obtained under Subsection (1) by transmission, display, or dissemination is a~~
- 8411 ~~third degree felony, except that if the violation of this Subsection (3) includes images of~~
- 8412 ~~a child under 14 years of age, the violation is a second degree felony.]~~
- 8413 ~~[(4) A person is guilty of voyeurism who, under circumstances not amounting to a~~
- 8414 ~~violation of Subsection (1), views or attempts to view an individual, with or without the~~
- 8415 ~~use of any instrumentality:]~~
- 8416 ~~[(a) with the intent of viewing any portion of the individual's body regarding which the~~
- 8417 ~~individual has a reasonable expectation of privacy, whether or not that portion of the~~
- 8418 ~~body is covered with clothing;]~~
- 8419 ~~[(b) without the knowledge or consent of the individual; and]~~
- 8420 ~~[(c) under circumstances in which the individual has a reasonable expectation of privacy.]~~
- 8421 ~~[(5)(a) Except as provided in Subsection (5)(b), a violation of Subsection (4) is a class B~~
- 8422 ~~misdemeanor.]~~
- 8423 ~~[(b) The following is a class A misdemeanor:]~~
- 8424 ~~[(i) a violation of Subsection (4) committed against a child under 14 years of age is a class~~
- 8425 ~~A misdemeanor;]~~
- 8426 ~~[(ii) a violation of Subsection (4) committed while also committing the offense of:]~~
- 8427 ~~[(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)~~
- 8428 ~~(d);]~~
- 8429 ~~[(B) lewdness under Section 76-9-702;]~~
- 8429 ~~[(C) lewdness involving a child under Section 76-9-702.5; or]~~

8430 ~~[(D) loitering in a privacy space under Section 76-9-702.8; or]~~
8431 ~~[(iii) a violation of Subsection (4) committed in a sex-designated privacy space, as defined~~
8432 ~~in Section 76-9-702.8, that is not designated for individuals of the actor's sex.]~~

8433 ~~[(6)] (4)~~ For purposes of this section, an individual has a reasonable expectation of privacy
8434 within a public restroom.

8435 Section 228. Section **76-12-308** is enacted to read:

8436 **76-12-308 . Distribution of images obtained through voyeurism.**

8437 (1)(a) As used in this section, "image" includes print, electronic, magnetic, or digital
8438 format.

8439 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
8440 section.

8441 (2) An actor commits distribution of images obtained through voyeurism if the actor
8442 distributes or sells an image obtained by conduct in violation of Section 76-12-207,
8443 Recorded or photographed voyeurism, by transmission, display, or dissemination.

8444 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
8445 degree felony.

8446 (b) A violation of Subsection (2) is a second degree felony if the image is of a child
8447 under 14 years old.

8448 Section 229. Section **76-12-309**, which is renumbered from Section 76-9-702.8 is renumbered
8449 and amended to read:

8450 **~~76-9-702.8~~76-12-309 . Loitering in a privacy space.**

8451 (1)(a) As used in this section:

8452 [(a)] (i) "Privacy space" means the following in which an individual has a reasonable
8453 expectation of privacy:

8454 [(i)] (A) a restroom or any other space that includes a toilet;

8455 [(ii)] (B) a dressing room, fitting room, locker room, changing facility, or any other
8456 space designated for multiple individuals to dress or undress within the same
8457 space; or

8458 [(iii)] (C) any room or space that includes a shower.

8459 [(b)] (ii) "Sex-designated" means that a facility, program, or event is designated
8460 specifically for males or females and not the opposite sex.

8461 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
8462 section.

8463 (2) An actor commits ~~[the offense of unlawfully]~~loitering in a privacy space if the actor

8464 intentionally or knowingly remains unlawfully in a privacy space.

8465 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
8466 misdemeanor.

8467 (b) A violation of Subsection [(4)] (2) is a class A misdemeanor if the actor commits the
8468 offense:

8469 (i) while also committing the offense of:

8470 (A) criminal trespass in a sex-designated changing room under Subsection
8471 76-6-206(2)(d);

8472 (B) lewdness under Section [76-9-702] 76-5-419;

8473 (C) lewdness involving a child under Section [76-9-702.5] 76-5-420; or

8474 (D) voyeurism under Section [76-9-702.7] 76-12-306 or 76-12-307; or

8475 (ii) in a sex-designated privacy space that is not designated for individuals of the
8476 actor's sex.

8477 Section 230. Section **76-12-401**, which is renumbered from Section 76-10-601 is renumbered
8478 and amended to read:

8479

Part 4. Offenses Involving Charitable Solicitations

8480 **[76-10-601]76-12-401 . Definitions.**

8481 As used in this part:

8482 (1) "Person" means [any] an individual, organization, group, association, partnership,
8483 corporation, or any combination of [them;] an individual, organization, group,
8484 association, partnership, or corporation.

8485 (2)(a) "Professional fund raiser" means [any] a person:

8486 (i) who, for compensation or any other consideration, plans, conducts, or manages in
8487 this state, the solicitation of contributions for or on behalf of [any] a charitable
8488 organization or any other person[-] ; or

8489 (ii) who engages in the business of, or holds [himself] the person's self out to persons
8490 in this state as, independently engaged in the business of soliciting contributions
8491 for such purpose[-, but shall not include a bona fide officer or employee of a
8492 charitable organization;] .

8493 (b) "Professional fund raiser" does not include a bona fide officer or employee of a
8494 charitable organization.

8495 (3) "Professional solicitor" means [any] a person who is employed or retained for
8496 compensation by a professional fund raiser to solicit contributions in this state for

8497 charitable purposes[;] .

8498 (4) "Charitable organization" means ~~[any]~~ an organization that is benevolent, philanthropic,
8499 patriotic, or eleemosynary or one purporting to be ~~[such;]~~ benevolent, philanthropic,
8500 patriotic, or eleemosynary.

8501 (5) "Contribution" means the promise or grant of ~~[any]~~ money or property of any kind or
8502 value.

8503 Section 231. Section **76-12-402**, which is renumbered from Section 76-10-602 is renumbered
8504 and amended to read:

8505 ~~[76-10-602]~~ **76-12-402** . **Unlawful use of a person's name for soliciting**
8506 **contributions.**

8507 (1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this section.

8508 (2) An actor commits unlawful use of a person's name for soliciting contributions if the
8509 actor:

8510 (a) ~~[No]~~ is a charitable organization, professional fund raiser, or professional
8511 solicitor, seeking to raise funds for a charitable [purposes,] purpose; and

8512 (b) ~~[shall use]~~ uses the name of any other person for the purpose of soliciting [
8513 contributions,] a charitable contribution in this state[;] without the written consent of
8514 the person[; provided that this section shall not apply to religious corporations or
8515 organizations, charities, agencies, and organizations operated, supervised, or
8516 controlled by or in connection with a religious corporation or organization].

8517 (3) A violation of Subsection (2) is a class B misdemeanor.

8518 (4) This section does not apply to:

8519 (a) a religious corporation, organization, charity, or agency; or

8520 (b) an organization operated, supervised, or controlled by or in connection with a
8521 religious corporation or organization.

8522 Section 232. Section **76-12-403**, which is renumbered from Section 76-10-603 is renumbered
8523 and amended to read:

8524 ~~[76-10-603]~~ **76-12-403** . **Unlawful use of a person's name as a solicitation**
8525 **endorsement.**

8526 (1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this
8527 section.

8528 (2) ~~[It is a violation of this part to use]~~ An actor commit unlawful use of a person's name as
8529 a solicitation endorsement if, without written consent[;] :

8530 (a) the actor uses the name of a person [for the purpose of soliciting contributions if the

8531 ~~person's name is listed]~~ on any stationery, advertisement, brochure, or
 8532 correspondence of a charitable organization[;] for the purpose of soliciting
 8533 contributions; or
 8534 (b) ~~[his name is listed or referred to]~~ the actor lists or refers to the person's name as [one]
 8535 a person who has contributed to, sponsored, or endorsed the charitable organization
 8536 or ~~[its]~~ the charitable organization's activities.

8537 (3) A violation of Subsection (2) is a class B misdemeanor.

8538 Section 233. Section **76-13-101** is enacted to read:

8539

CHAPTER 13. OFFENSES INVOLVING CRUELTY TO ANIMALS

8540

Part 1. General Provisions

8541 **76-13-101 . Definitions.**

8542 Reserved.

8543 Section 234. Section **76-13-102**, which is renumbered from Section 76-9-305 is renumbered
 8544 and amended to read:

8545 ~~[76-9-305]~~ **76-13-102 . Officer's authority to take possession of an animal -- Lien**
 8546 **for care -- Humane destruction.**

8547 (1) ~~[Any]~~ Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

8548 (2) A law enforcement officer may take possession of [any animals] an animal being treated
 8549 cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for [
 8550 ~~them]~~ the animal or, upon permission from the owner, may destroy [~~them]~~ the animal.

8551 ~~[(2)]~~ (3) ~~[Officers caring for animals pursuant to]~~

8552 (a) An officer carrying for an animal under this section [have] has a lien for the
 8553 reasonable value of the care [and/or destruction] provided to the animal and, if
 8554 applicable, the reasonable value for the destruction of the animal.

8555 (b) ~~[Any]~~ A court, upon proof that the owner has been notified at least five days earlier
 8556 of the lien and amount due, [at least five days prior,] shall order the animal sold at
 8557 public auction or destroyed.

8558 ~~[(3)]~~ (4) ~~[Any]~~

8559 (a) A law enforcement officer may humanely destroy [any] an animal found suffering
 8560 past recovery for any useful purpose.

8561 (b) Before destroying the animal under Subsection (4)(a), the officer shall obtain:

8562 (i) the judgment [to the effect] of a veterinarian [;] or of two reputable citizens called
 8563 by [him] the officer to view the animal in [his] the officer's presence, of the

8564 animal's nonrecoverable condition; or

8565 (ii) ~~[shall obtain]~~ consent to the destruction from the owner of the animal.

8566 Section 235. Section **76-13-103**, which is renumbered from Section 76-9-301.6 is renumbered
8567 and amended to read:

8568 ~~[76-9-301.6]~~ **76-13-103 . Officer's authority at a dog fighting exhibition --**
8569 **Authority to arrest and take possession of dogs and property.**

8570 (1) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

8571 (2) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may
8572 enter any place, building, or tenement where an exhibition of dog fighting is occurring,
8573 or where preparations are being made for such an exhibition and, without a warrant,
8574 arrest all persons present.

8575 ~~[(2)]~~ (3)(a) Notwithstanding the provisions of Section ~~[76-9-305]~~ 76-13-102, Officer's
8576 authority to take possession of an animal, any authorized officer who makes an arrest
8577 under ~~[Subsection (1)]~~ Subsection (2) may lawfully take possession of all dogs,
8578 paraphernalia, implements, or other property or things used or employed, or to be
8579 employed, in an exhibition of dog fighting prohibited by Subsection ~~[76-9-301(2)(e)]~~
8580 76-13-202(2)(e) or Section ~~[76-9-301.1]~~ 76-13-205, Dog fighting.

8581 (b) The officer, at the time of the taking of property pursuant to Subsection ~~[(2)(a)]~~ (3)(a),
8582 shall state ~~[his]~~ the officer's name and provide other identifying information to the
8583 person in charge of the dogs or property taken.

8584 ~~[(3)]~~ (4)(a) After taking possession of dogs, paraphernalia, implements, or other property
8585 or things under Subsection ~~[(2)]~~ (3), the officer shall file an affidavit with the judge or
8586 magistrate before whom a complaint has been made against any person arrested
8587 under this section.

8588 (b) The affidavit shall include:

8589 (i) the name of the person charged in the complaint;

8590 (ii) a description of all property taken;

8591 (iii) the time and place of the taking of the property;

8592 (iv) the name of the person from whom the property was taken;

8593 (v) the name of the person who claims to own the property, if known; and

8594 (vi) a statement that the officer has reason to believe and believes that the property
8595 taken was used or employed, or was to be used or employed, in violation of

8596 Section ~~[76-9-301 or 76-9-301.1]~~ 76-13-202, 76-13-203, 76-13-204, or 76-13-205,
8597 and the grounds for the belief.

- 8598 [(4)] (5)(a) The officer shall deliver the confiscated property to the judge or magistrate
 8599 who shall, by order, place the property in the custody of the officer or any other
 8600 person designated in the order, and that person shall keep the property until
 8601 conviction or final discharge of the person against whom the complaint was made.
 8602 (b) The person designated in Subsection [(4)(a)] (5)(a) shall assume immediate custody
 8603 of the property, and retain the property until further order of the court.
 8604 (c) Upon conviction of the person charged, all confiscated property shall be forfeited and
 8605 destroyed or otherwise disposed of, as the court may order.
 8606 (d) If the person charged is acquitted or discharged without conviction, the court shall,
 8607 on demand, order the property to be returned to its owner.

8608 Section 236. Section **76-13-104**, which is renumbered from Section 76-9-301.7 is renumbered
 8609 and amended to read:

8610 ~~[76-9-301.7]~~ **76-13-104 . Enhanced penalties for cruelty to animal offenses.**

- 8611 (1)(a) As used in this section, "conviction" means a conviction by plea or by verdict,
 8612 including a plea of guilty or no contest that is held in abeyance under Title 77,
 8613 Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is,
 8614 subsequently reduced or dismissed in accordance with the plea in abeyance
 8615 agreement.
 8616 (b) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.
 8617 (2) Except as provided in Subsection (4), ~~[a person]~~ an actor who commits ~~[any]~~ a violation
 8618 of Section ~~[76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4)]~~ 76-13-202,
 8619 76-13-203, 76-13-206, or 76-13-208 within the state and on at least one previous
 8620 occasion has been convicted of violating Section ~~[76-9-301, Section 76-9-301.5, or~~
 8621 ~~Subsection 76-9-301.1(4)]~~ 76-13-202, 76-13-203, 76-13-206, or 76-13-208 shall be
 8622 subject to an enhanced penalty as provided in Subsection (3).
 8623 (3) The enhanced degree of offense for offenses committed under this section are:
 8624 (a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and
 8625 (b) if the offense is a class B misdemeanor, it is a class A misdemeanor.
 8626 (4) The penalty enhancements described in this section do not apply to a conviction for the
 8627 offense described in ~~[Subsection 76-9-301(6)]~~ Section 76-13-204, Torturing a companion
 8628 animal.

8629 Section 237. Section **76-13-201** is enacted to read:

8630

Part 2. Cruelty to Animal Offenses

8631 **76-13-201 . Definitions.**

8632 Reserved.

8633 Section 238. Section **76-13-202**, which is renumbered from Section 76-9-301 is renumbered
8634 and amended to read:

8635 **~~76-9-301~~76-13-202 . Cruelty to an animal.**

8636 (1)(a) As used in this section:

8637 ~~[(a)] (i)[(†)] (A)~~ "Abandon" means to intentionally deposit, leave, or drop off any
8638 live animal:

8639 ~~[(A)] (I)~~ without providing for the care of that animal, in accordance with
8640 accepted animal husbandry practices or customary farming practices; or
8641 ~~[(B)] (II)~~ in a situation where conditions present an immediate, direct, and
8642 serious threat to the life, safety, or health of the animal.

8643 ~~[(†)] (B)~~ "Abandon" does not include returning wildlife to its natural habitat.

8644 ~~[(b)] (ii)[(†)] (A)~~ "Animal" means, except as provided in Subsection ~~[(†)(b)(ii)]~~
8645 ~~(1)(a)(ii)(B)~~, a live, nonhuman vertebrate creature.

8646 ~~[(†)] (B)~~ "Animal" does not include:

8647 ~~[(A)] (I)~~ a live, nonhuman vertebrate creature, if:

8648 ~~[(†)] (Aa)~~ the conduct toward the creature, and the care provided to the
8649 creature, is in accordance with accepted animal husbandry practices; and

8650 ~~[(H)] (Bb)~~ the creature is:

8651 ~~[(Aa)] (Ii)~~ owned or kept by a zoological park that is accredited by, or a
8652 member of, the American Zoo and Aquarium Association;

8653 ~~[(Bb)] (IIii)~~ kept, owned, or used for the purpose of training hunting dogs
8654 or raptors; or

8655 ~~[(Ce)] (IIIiii)~~ temporarily in the state as part of a circus or traveling
8656 exhibitor licensed by the United States Department of Agriculture
8657 under 7 U.S.C. Sec. 2133;

8658 ~~[(B)] (II)~~ a live, nonhuman vertebrate creature that is owned, kept, or used for
8659 rodeo purposes, if the conduct toward the creature, and the care provided to
8660 the creature, is in accordance with accepted rodeo practices;

8661 ~~[(C)] (III)~~ livestock, if the conduct toward the creature, and the care provided to
8662 the creature, is in accordance with accepted animal husbandry practices or
8663 customary farming practices; or

8664 ~~[(D)] (IV)~~ wildlife, as defined in Section 23A-1-101, including protected and

8665 unprotected wildlife, if the conduct toward the wildlife is in accordance
8666 with lawful hunting, fishing, or trapping practices or other lawful practices.

8667 [~~(e)~~] "~~Companion animal~~" means ~~an animal that is a domestic dog or a domestic cat.~~
8668 [~~(d)~~] (iii) "Custody" means ownership, possession, or control over an animal.
8669 [~~(e)~~] (iv) "Legal privilege" means an act that:

8670 [~~(i)~~] (A) is authorized by state law, including rules under Title 23A, Wildlife
8671 Resources Act; and
8672 [~~(ii)~~] (B) is not in violation of a local ordinance.

8673 [~~(f)~~] (v) "Livestock" means:
8674 [~~(i)~~] (A) domesticated:
8675 [~~(A)~~] (I) cattle;
8676 [~~(B)~~] (II) sheep;
8677 [~~(C)~~] (III) goats;
8678 [~~(D)~~] (IV) turkeys;
8679 [~~(E)~~] (V) swine;
8680 [~~(F)~~] (VI) equines;
8681 [~~(G)~~] (VII) camelidae;
8682 [~~(H)~~] (VIII) ratites; or
8683 [~~(I)~~] (IX) bison;
8684 [~~(ii)~~] (B) domesticated elk, as defined in Section 4-39-102;
8685 [~~(iii)~~] (C) a livestock guardian dog, as defined in Section 76-6-111; or
8686 [~~(iv)~~] (D) any domesticated nonhuman vertebrate creature, domestic furbearer, or
8687 domestic poultry, raised, kept, or used for agricultural purposes.

8688 [~~(g)~~] (vi) "Necessary food, water, care, or shelter" means the following, taking into
8689 account the species, age, and physical condition of the animal:
8690 [~~(i)~~] (A) appropriate and essential food and water;
8691 [~~(ii)~~] (B) adequate protection, including appropriate shelter, against extreme
8692 weather conditions; and
8693 [~~(iii)~~] (C) other essential care.

8694 [~~(h)~~] (vii) "Torture" means intentionally or knowingly causing or inflicting extreme
8695 physical pain to an animal in an especially heinous, atrocious, cruel, or
8696 exceptionally depraved manner.

8697 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
8698 section.

- 8699 (2) Except as provided in Subsection ~~[(4) or (6)]~~ (4), ~~[a person is guilty of]~~ an actor commits
8700 cruelty to an animal if the ~~[person]~~ actor, without legal privilege to do so, intentionally,
8701 knowingly, recklessly, or with criminal negligence:
- 8702 (a) fails to provide necessary food, water, care, or shelter for an animal in the ~~[person's]~~
8703 actor's custody;
- 8704 (b) abandons an animal in the ~~[person's]~~ actor's custody;
- 8705 (c) injures an animal;
- 8706 (d) causes ~~[any]~~ an animal, not including a dog or game fowl, to fight with another
8707 animal of like kind for amusement or gain; or
- 8708 (e) causes ~~[any]~~ an animal, including a dog or game fowl, to fight with a different kind of
8709 animal or creature for amusement or gain.
- 8710 (3) ~~[Except as provided in Section 76-9-301.7, a]~~ A violation of Subsection (2) is:
- 8711 (a) a class B misdemeanor if committed intentionally or knowingly; ~~[and]~~ or
8712 (b) a class C misdemeanor if committed recklessly or with criminal negligence.
- 8713 (4) If an actor's conduct in violation of this section also constitutes a violation of Section
8714 76-13-203, Aggravated cruelty to an animal, or Section 76-13-204, Torturing a
8715 companion animal, the actor's conduct shall be prosecuted under either Section
8716 76-13-203 or 76-13-204 as applicable.~~[A person is guilty of aggravated cruelty to an~~
8717 ~~animal if the person:]~~
- 8718 ~~[(a) tortures an animal;]~~
- 8719 ~~[(b) administers, or causes to be administered, poison or a poisonous substance to an~~
8720 ~~animal; or]~~
- 8721 ~~[(c) kills an animal or causes an animal to be killed without having a legal privilege to~~
8722 ~~do so.]~~
- 8723 ~~[(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection~~
8724 ~~(4) is:]~~
- 8725 ~~[(a) a class A misdemeanor if committed intentionally or knowingly;]~~
- 8726 ~~[(b) a class B misdemeanor if committed recklessly; and]~~
- 8727 ~~[(c) a class C misdemeanor if committed with criminal negligence.]~~
- 8728 ~~[(6) A person is guilty of a third degree felony if the person intentionally or knowingly~~
8729 ~~tortures a companion animal.]~~
- 8730 ~~[(7)]~~ (5) It is a defense to prosecution under this section that the conduct of the actor
8731 towards the animal was:
- 8732 (a) by a licensed veterinarian using accepted veterinary practice;

- 8733 (b) directly related to bona fide experimentation for scientific research, provided that if
8734 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
8735 unless directly necessary to the veterinary purpose or scientific research involved;
- 8736 (c) permitted under Section 18-1-3;
- 8737 (d) by~~[a person]~~ an actor who humanely destroys ~~[any]~~ an animal found suffering past
8738 recovery for any useful purpose; or
- 8739 (e) by ~~[a person]~~ an actor who humanely destroys ~~[any]~~ an apparently abandoned animal
8740 found on the ~~[person's]~~ actor's property.
- 8741 ~~[(8)]~~ (6) For purposes of Subsection ~~[(7)(d)]~~ (5)(d), before destroying the suffering animal,
8742 the ~~[person]~~ actor who is not the owner of the animal shall obtain:
- 8743 (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
- 8744 (b) the judgment of two other persons called by the ~~[person]~~ actor to view the
8745 unrecoverable condition of the animal in the ~~[person's]~~ actor's presence;
- 8746 (c) the consent from the owner of the animal to the destruction of the animal; or
- 8747 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the [
8748 ~~person's]~~ actor's own observation, if the ~~[person]~~ actor is in a location or circumstance
8749 where the ~~[person]~~ actor is unable to contact another person.
- 8750 ~~[(9)]~~ (7) This section does not affect or prohibit:
- 8751 (a) the training, instruction, and grooming of animals, if the methods used are in
8752 accordance with accepted animal husbandry practices or customary farming practices;
- 8753 (b) the use of an electronic locating or training collar by the owner of an animal for the
8754 purpose of lawful animal training, lawful hunting practices, or protecting against loss
8755 of that animal; or
- 8756 (c) the lawful hunting of, fishing for, or trapping of, wildlife.
- 8757 ~~[(10)]~~ (8) County and municipal governments may not prohibit the use of an electronic
8758 locating or training collar.
- 8759 ~~[(11)]~~ (9) Upon conviction under this section, the court may in its discretion, in addition to
8760 other penalties:
- 8761 (a) order the defendant to be evaluated to determine the need for psychiatric or
8762 psychological counseling, to receive counseling as the court determines to be
8763 appropriate, and to pay the costs of the evaluation and counseling;
- 8764 (b) require the defendant to forfeit any rights the defendant has to the animal subjected
8765 to a violation of this section and to repay the reasonable costs incurred by any person
8766 or agency in caring for each animal subjected to violation of this section;

8767 (c) order the defendant to no longer possess or retain custody of any animal, as specified
8768 by the court, during the period of the defendant's probation or parole or other period
8769 as designated by the court; and

8770 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
8771 county or municipal animal control agency or an animal welfare agency registered
8772 with the state to be sold at public auction or humanely destroyed.

8773 [(12)] (10) This section does not prohibit the use of animals in lawful training.

8774 [(13)] (11) A veterinarian who, acting in good faith, reports a violation of this section to law
8775 enforcement may not be held civilly liable for making the report.

8776 Section 239. Section **76-13-203** is enacted to read:

8777 **76-13-203 . Aggravated cruelty to an animal.**

8778 (1)(a) As used in this section:

8779 (i) "Animal" means the same as that term is defined in Section 76-13-202.

8780 (ii) "Custody" means the same as that term is defined in Section 76-13-202.

8781 (iii) "Legal privilege" means the same as that term is defined in Section 76-13-202.

8782 (iv) "Torture" means the same as that term is defined in Section 76-13-202.

8783 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
8784 section.

8785 (2) Except as provided in Subsection (4), an actor commits aggravated cruelty to an animal
8786 if the actor:

8787 (a) tortures an animal;

8788 (b) administers, or causes to be administered, poison or a poisonous substance to an
8789 animal; or

8790 (c) kills an animal or causes an animal to be killed without having a legal privilege to do
8791 so.

8792 (3) A violation of Subsection (2) is:

8793 (a) a class A misdemeanor if committed intentionally or knowingly;

8794 (b) a class B misdemeanor if committed recklessly; or

8795 (c) a class C misdemeanor if committed with criminal negligence.

8796 (4) If an actor's conduct in violation of this section also constitutes a violation of Section
8797 76-13-204, Torturing a companion animal, the actor's conduct shall be prosecuted under
8798 Section 76-13-204.

8799 (5) It is a defense to prosecution under this section that the conduct of the actor towards the
8800 animal was:

- 8801 (a) performed by a licensed veterinarian using accepted veterinary practice;
8802 (b) directly related to bona fide experimentation for scientific research, provided that if
8803 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
8804 unless directly necessary to the veterinary purpose or scientific research involved;
8805 (c) permitted under Section 18-1-3;
8806 (d) performed by an actor who humanely destroys an animal found suffering past
8807 recovery for any useful purpose; or
8808 (e) performed by an actor who humanely destroys an apparently abandoned animal
8809 found on the actor's property.
- 8810 (6) For purposes of Subsection (5)(d), before destroying the suffering animal, an actor who
8811 is not the owner of the animal shall obtain:
- 8812 (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
8813 (b) the judgment of two other individuals called by the actor to view the unrecoverable
8814 condition of the animal in the actor's presence;
8815 (c) the consent from the owner of the animal to the destruction of the animal; or
8816 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the
8817 actor's own observation, if the actor is in a location or circumstance where the actor is
8818 unable to contact another individual.
- 8819 (7) Upon conviction under this section, the court may in the court's discretion, in addition to
8820 other penalties:
- 8821 (a) order the actor to be evaluated to determine the need for psychiatric or psychological
8822 counseling, to receive counseling as the court determines to be appropriate, and to
8823 pay the costs of the evaluation and counseling;
8824 (b) require the actor to forfeit any rights the actor has to the animal subjected to a
8825 violation of this section and to repay the reasonable costs incurred by any person in
8826 caring for each animal subjected to violation of this section;
8827 (c) order the actor to no longer possess or retain custody of any animal, as specified by
8828 the court, during the period of the actor's probation or parole or other period as
8829 designated by the court; and
8830 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
8831 county or municipal animal control agency or an animal welfare agency registered
8832 with the state to be sold at public auction or humanely destroyed.
- 8833 (8) A veterinarian who, acting in good faith, reports a violation of this section to law
8834 enforcement may not be held civilly liable for making the report.

8835 Section 240. Section **76-13-204** is enacted to read:

8836 **76-13-204 . Torturing a companion animal.**

8837 (1)(a) As used in this section:

8838 (i) "Animal" means the same as that term is defined in Section 76-13-202.

8839 (ii) "Companion animal" means an animal that is a domestic dog or a domestic cat.

8840 (iii) "Custody" means the same as that term is defined in Section 76-13-202.

8841 (iv) "Torture" means the same as that term is defined in Section 76-13-202.

8842 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
8843 section.

8844 (2) An actor commits torturing a companion animal if the actor intentionally or knowingly
8845 tortures a companion animal.

8846 (3) A violation of Subsection (2) is a third degree felony.

8847 (4) It is a defense to prosecution under this section that the conduct of the actor towards the
8848 animal was:

8849 (a) performed by a licensed veterinarian using accepted veterinary practice;

8850 (b) directly related to bona fide experimentation for scientific research, provided that if
8851 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
8852 unless directly necessary to the veterinary purpose or scientific research involved; or

8853 (c) permitted under Section 18-1-3.

8854 (5) Upon conviction under this section, the court may in its discretion, in addition to other
8855 penalties:

8856 (a) order the actor to be evaluated to determine the need for psychiatric or psychological
8857 counseling, to receive counseling as the court determines to be appropriate, and to
8858 pay the costs of the evaluation and counseling;

8859 (b) require the actor to forfeit any rights the actor has to the animal subjected to a
8860 violation of this section and to repay the reasonable costs incurred by any person in
8861 caring for each animal subjected to violation of this section;

8862 (c) order the actor to no longer possess or retain custody of any animal, as specified by
8863 the court, during the period of the actor's probation or parole or other period as
8864 designated by the court; and

8865 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
8866 county or municipal animal control agency or an animal welfare agency registered
8867 with the state to be sold at public auction or humanely destroyed.

8868 (6) A veterinarian who, acting in good faith, reports a violation of this section to law

8869 enforcement may not be held civilly liable for making the report.

8870 Section 241. Section **76-13-205**, which is renumbered from Section 76-9-301.1 is renumbered
8871 and amended to read:

8872 ~~[76-9-301.1]~~ **76-13-205 . Dog fighting.**

8873 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

8874 (2) ~~[It is unlawful for any person to]~~ An actor commits dog fighting if the actor:

8875 (a) ~~[own, possess, keep, or train]~~ owns, possesses, keeps, or trains a dog with the intent to
8876 engage ~~[it]~~ the dog in an exhibition of fighting with another dog;

8877 (b) ~~[cause]~~ causes a dog to fight with another dog or ~~[cause]~~ causes a dog to injure
8878 another dog for amusement or gain;

8879 (c) ~~[tie, attach, or fasten-]~~ ties, attaches, or fastens any live animal to a machine or device
8880 propelled by any power, for the purpose of causing the animal to be pursued by a
8881 dog; ~~[or]~~

8882 (d) ~~[permit or allow any act which-]~~ permits or allows any act that violates Subsection [
8883 ~~(1)(a), (b), or (c)-]~~ (2)(a), (b), or (c) on any premises under ~~[his]~~ the actor's charge; or

8884 (e) ~~[to control, aid, or abet any such act]~~ controls, aids, or abets any act that violates
8885 Subsection (2)(a), (b), or (c).

8886 ~~[(2)]~~ (3)(a) A violation of Subsection (2) is a third degree felony.

8887 (b) A fine imposed for a violation of Subsection (2) may not exceed \$25,000.

8888 (4) Possession of ~~[any]~~ a breaking stick, treadmill, wheel, hot walker, cat mill, cat walker,
8889 jenni, or other paraphernalia, together with evidence that the paraphernalia is being used
8890 or is intended for use in the unlawful training of a dog to fight with another dog, together
8891 with the possession of any such dog, is prima facie evidence of violation of ~~[Subsections~~
8892 ~~(1)(b) and (c)]~~ Subsection (2)(b) or (c).

8893 ~~[(3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine~~
8894 ~~imposed may not exceed \$25,000.]~~

8895 ~~[(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at~~
8896 ~~any place, building, or tenement where preparations are being made for an exhibition of~~
8897 ~~dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or~~
8898 ~~any other occurrence of fighting or injury described in this section. A person who~~
8899 ~~violates this subsection is guilty of a class B misdemeanor.]~~

8900 (5) Nothing in this section prohibits any of the following:

8901 (a) the use of dogs for management of livestock by the owner, ~~[his]~~ the owner's
8902 employees or agents, or any other person in the lawful custody of livestock;

- 8903 (b) the use of dogs for hunting; or
8904 (c) the training of dogs or the possession or use of equipment in the training of dogs for
8905 any purpose not prohibited by law.

8906 Section 242. Section **76-13-206** is enacted to read:

8907 **76-13-206 . Attending a dog fight or related activity.**

8908 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

8909 (2) An actor commits attending a dog fight or related activity if the actor knowingly or
8910 intentionally is:

8911 (a) present as a spectator at a place, building, or tenement where preparations are being
8912 made for an exhibition of dog fighting;

8913 (b) present at a dog fighting exhibition; or

8914 (c) present for any other conduct that would be in violation of Section 76-13-205, Dog
8915 fighting.

8916 (3) A violation of Subsection (2) is a class B misdemeanor.

8917 Section 243. Section **76-13-207**, which is renumbered from Section 76-9-301.3 is renumbered
8918 and amended to read:

8919 **[76-9-301.3] 76-13-207 . Game fowl fighting.**

8920 (1)(a) As used in this section:

8921 ~~[(a)]~~ (i) "Game fowl" means a fowl reared or used for fighting other fowl.

8922 ~~[(b)]~~ (ii) "Promote" means to engage in promoting, producing, or staging events or
8923 activities that involve game fowl fighting.

8924 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
8925 section.

8926 (2) ~~[It is unlawful for a person to]~~ An actor commits game fowl fighting if the actor:

8927 (a) intentionally ~~[cause]~~ causes a game fowl to fight with or attack another game fowl for
8928 the purpose of entertainment, sport, or contest; or

8929 (b) ~~[promote-]~~ promotes any activity that involves game fowl fighting, including
8930 promoting an activity that is a violation of Subsection (2)(a).

8931 (3) ~~[A person who violates-]~~ A violation of Subsection (2) is~~[, upon conviction, guilty of]:~~

8932 (a) a class B misdemeanor for the first violation;

8933 (b) a class A misdemeanor for the second violation; or

8934 (c) a third degree felony for a third or subsequent violation.

8935 (4) This section does not prohibit the lawful use of livestock by the livestock owner, an

8936 employee or agent of the livestock owner, or a person in the lawful custody of livestock.

8937 Section 244. Section **76-13-208**, which is renumbered from Section 76-9-301.5 is renumbered
8938 and amended to read:

8939 **~~76-9-301.5~~76-13-208 . Attending an organized animal fighting exhibition.**

8940 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
8941 section.

8942 (2) ~~It is unlawful for a person to-~~ An actor commits attending an organized animal fighting
8943 exhibition if the actor is knowingly ~~be-~~present:

8944 (a) as a spectator at any place, building, or tenement where preparations are being made
8945 for an exhibition of the fighting of animals, as prohibited by ~~Subsections~~

8946 ~~76-9-301(2)(d) and (e);~~ Subsection 76-13-202(2)(d) or (e); or

8947 (b) ~~[to be present] at [such] an exhibition prohibited by Subsection 76-13-202(2)(d) or (e),~~
8948 regardless of whether ~~any~~ an entrance fee has been charged.

8949 (3) ~~[A person who violates this section is guilty of-] A violation of Subsection (2) is a class~~
8950 B misdemeanor.

8951 Section 245. Section **76-13-209**, which is renumbered from Section 76-9-306 is renumbered
8952 and amended to read:

8953 **~~76-9-306~~76-13-209 . Endangering, injuring, or killing a police service animal.**

8954 (1)

8955 (a) As used in this section:

8956 ~~[(a)]~~ (i) "Handler" means a law enforcement officer who is specially trained, and uses
8957 a police service ~~eanine~~ animal during the course of the performance of ~~his~~ the
8958 law enforcement officer's law enforcement duties.

8959 ~~[(b)]~~ (ii) "Police service ~~eanine~~ animal" means:

8960 (A) any dog used by a law enforcement agency~~[-which-]~~ that is specially trained
8961 for law enforcement work~~[-or-]~~ ; or

8962 (B) any animal contracted to assist a law enforcement agency in the performance
8963 of law enforcement duties.

8964 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
8965 section.

8966 (2) An actor commits endangering, injuring or killing a police service animal if the actor
8967 intentionally or knowingly:~~[It is a second degree felony for a person to intentionally or~~
8968 knowingly cause-]

8969 (a) causes the death [to] of a police service ~~eanine-~~ animal;

8970 (b) causes bodily injury to a police service animal;

8971 (c) engages in conduct likely to cause bodily injury or death to a police service animal; or
 8972 (d) lays out, places, or administers any poison, trap, substance, or object that is likely to
 8973 produce bodily injury or death to a police service animal.

8974 (3)(a) A violation of Subsection (2)(a) is a second degree felony.

8975 (b) A violation of Subsection (2)(b), (c), or (d) is a third degree felony.

8976 [~~(3) It is a third-degree felony for a person to intentionally or knowingly:]~~

8977 [~~(a) cause bodily injury to a police service canine;]~~

8978 [~~(b) engage in conduct likely to cause bodily injury or death to a police service canine; or]~~

8979 [~~(c) lay out, place, or administer any poison, trap, substance, or object which is likely to~~
 8980 ~~produce bodily injury or death to a police service canine.]~~

8981 [~~(4) It is a class A misdemeanor for a person to intentionally or knowingly:]~~

8982 [~~(a) taunt, torment, strike, or otherwise assault a police service canine;]~~

8983 [~~(b) throw any object or substance at, or in the path of, a police service canine;]~~

8984 [~~(c) interfere with or obstruct a police service canine, or attempt to, or interfere with the~~
 8985 ~~handler of the canine in a manner that inhibits, restricts, or deprives the handler of~~
 8986 ~~control of the canine;]~~

8987 [~~(d) release a police service canine from its area of control, such as a vehicle, kennel, or~~
 8988 ~~pen, or trespass in that area; or]~~

8989 [~~(e) place any food, object, or substance into a police service canine's area of control~~
 8990 ~~without the permission of the handler.]~~

8991 [~~(5) (4)(a) A police service [canine] animal is exempt from quarantine or other animal~~
 8992 ~~control ordinances if [it] the police service animal bites any [person] individual while~~
 8993 ~~under proper police supervision or routine veterinary care.~~

8994 (b) The law enforcement agency and the [canine's] police service animal's handler shall
 8995 make the [canine] police service animal available for examination at [any] a
 8996 reasonable time and shall notify the local health officer if the [canine] police service
 8997 animal exhibits any abnormal behavior.

8998 [~~(6) (5) In addition to any other penalty, [a person] an actor convicted of a violation of this~~
 8999 ~~section is liable for restitution to the owning or employing law enforcement agency or~~
 9000 ~~individual owner of the police service [canine] animal for the replacement, training, and~~
 9001 ~~veterinary costs incurred as a result of the violation of this section.~~

9002 Section 246. Section **76-13-210** is enacted to read:

9003 **76-13-210 . Interference with a police service animal.**

9004 (1)(a) As used in this section:

- 9005 (i) "Handler" means the same as that term is defined in Section 76-13-209.
- 9006 (ii) "Police service animal" means the same as that term is defined in Section
- 9007 76-13-209.
- 9008 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
- 9009 section.
- 9010 (2) An actor commits interference with a police service animal if the actor intentionally or
- 9011 knowingly:
- 9012 (a) taunts, torments, strikes, or otherwise assaults a police service animal;
- 9013 (b) throws any object or substance at, or in the path of, a police service animal;
- 9014 (c) interferes with or obstructs a police service animal, or attempts to, or interferes with
- 9015 the handler of the police service animal in a manner that inhibits, restricts, or
- 9016 deprives the handler of control of the police service animal;
- 9017 (d) releases a police service animal from the police service animal's area of control, such
- 9018 as a vehicle, kennel, or pen, or trespasses in that area; or
- 9019 (e) places any food, object, or substance into a police service animal's area of control
- 9020 without the permission of the handler.
- 9021 (3) A violation of Subsection (2) is a class A misdemeanor.
- 9022 (4) In addition to any other penalty, an actor convicted of a violation of this section is liable
- 9023 for restitution to the owning or employing law enforcement agency or individual owner
- 9024 of the police service animal for the replacement, training, and veterinary costs incurred
- 9025 as a result of the violation of this section.

9026 Section 247. Section **76-13-211**, which is renumbered from Section 76-9-307 is renumbered

9027 and amended to read:

9028 **~~[76-9-307]~~76-13-211 . Injuring, harassing, or endangering a service animal.**

9029 (1)(a) As used in this section:

9030 ~~[(a)]~~ (i) "Disability" ~~[has the same meaning as]~~ means the same as that term is defined

9031 in Section 26B-6-801.

9032 ~~[(b)]~~ (ii) "Search and rescue dog" means a dog:

9033 ~~[(i)]~~ (A) with documented training to locate ~~[persons]~~ individuals who are:

9034 ~~[(A)]~~ (I) lost, missing, or injured; or

9035 ~~[(B)]~~ (II) trapped under debris as the result of a natural or man-made event; and

9036 ~~[(ii)]~~ (B) affiliated with an established search and rescue dog organization.

9037 ~~[(c)]~~ (iii) "Service animal" means:

9038 ~~[(i)]~~ (A) a service animal as that term is defined in Section 26B-6-801; or

- 9039 ~~[(ii)]~~ (B) a search and rescue dog.
- 9040 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
- 9041 section.
- 9042 (2) An actor commits injuring, harassing, or endangering a service animal if the actor:
- 9043 ~~(a)~~ [It is a class A misdemeanor for a person to] knowingly, intentionally, or recklessly [~~ca~~use] causes substantial bodily injury or death to a service animal[-] ;
- 9044 ~~[(3)]~~ (b) ~~[It is a class A misdemeanor for a person who]~~ owns, keeps, harbors, or
- 9045 exercises control over an animal [~~to~~] and knowingly, intentionally, or recklessly [~~fail~~]
- 9046 fails to exercise sufficient control over the animal to prevent [~~it~~] the animal from[
- 9047 causing]:
- 9048 ~~[(a)]~~ (i) [~~any~~] causing substantial bodily injury to or the death of a service animal; [~~or~~]
- 9049 ~~[(b)]~~ (ii) [~~the~~] causing a service animal's subsequent inability to function as a service
- 9050 animal as a result of the animal's attacking, chasing, or harassing the service
- 9051 animal[-] ; or
- 9052 (iii) chasing or harassing a service animal while the service animal is carrying out the
- 9053 service animal's functions as a service animal, to the extent that the animal
- 9054 temporarily interferes with the service animal's ability to carry out the service
- 9055 animal's functions; or
- 9056 ~~[(4)]~~ (c) ~~[It is a class B misdemeanor for a person to chase or harass]~~ chases or harasses a
- 9057 service animal.
- 9058 (3)(a) A violation of Subsection (2)(a), (2)(b)(i), or (2)(b)(ii) is a class A misdemeanor.
- 9059 (b) A violation of Subsection (2)(b)(iii) or (2)(c) is a class B misdemeanor.
- 9060 ~~[(5)]~~ It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises
- 9061 control over an animal to knowingly, intentionally, or recklessly fail to exercise
- 9062 sufficient control over the animal to prevent it from chasing or harassing a service
- 9063 animal while it is carrying out its functions as a service animal, to the extent that the
- 9064 animal temporarily interferes with the service animal's ability to carry out its functions.]
- 9065 ~~[(6)]~~ (4)(a) A service animal is exempt from quarantine or other animal control
- 9066 ordinances if [~~it~~] the service animal bites [~~any person~~] an individual while [~~it~~] the
- 9067 service animal is subject to an offense under Subsection (2)[~~, (3), (4), or (5)~~].
- 9068 (b) The owner of the service animal or the [~~person~~] individual with a disability whom the
- 9069 service animal serves shall make the service animal available for examination at [~~any~~]
- 9070 a reasonable time and shall notify the local health officer if the service animal
- 9071 exhibits any abnormal behavior.
- 9072

9073 [(7)] (5) In addition to any other penalty, [a person] an actor convicted of [any] a violation of
 9074 this section is liable for restitution to the owner of the service animal or the [person]
 9075 individual with a disability whom the service animal serves for the replacement,
 9076 training, and veterinary costs incurred as a result of the violation of this section.

9077 [(8)] (6) If the act committed under this section amounts to an offense subject to a greater
 9078 penalty under another provision of Title 76, Utah Criminal Code, than is provided under
 9079 this section, this section does not prohibit prosecution and sentencing for the more
 9080 serious offense.

9081 Section 248. Section **76-13-212**, which is renumbered from Section 76-9-304 is renumbered
 9082 and amended to read:

9083 **[76-9-304]76-13-212 . Allowing a vicious animal to go at large.**

9084 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

9085 (2) [Any] An actor commits allowing a vicious animal to go at large if:

9086 (a) the actor is an owner of a vicious animal, knowing [its] the animal's propensities, and:

9087 (i) [who] willfully allows [it] the animal to go at large; or

9088 (ii) [who] keeps [it] the animal without ordinary care~~[-and]~~ ; and

9089 (b) [any] the animal, while at large, or while not kept with ordinary care, causes injury to

9090 or the death of another animal or ~~[to any] a~~ human being who has taken reasonable[

9091 precaution which the circumstances permitted] precautions under the circumstances.

9092 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is ~~[-is~~

9093 guilty of] a class B misdemeanor.

9094 (b) A violation of Subsection (2) is a third degree felony if ~~[unless]~~ the animal causes the

9095 death of a human being~~[-whereupon the owner is guilty of a felony of the third degree].~~

9096 Section 249. Section **76-13-213**, which is renumbered from Section 76-9-301.8 is renumbered

9097 and amended to read:

9098 **[76-9-301.8]76-13-213 . Bestiality.**

9099 [(1) A person commits the crime of bestiality if the actor engages in any sexual activity

9100 with an animal with the intent of sexual gratification of the actor.]

9101 [(2)] (1)(a) For purposes of this section~~[-only]~~:

9102 [(a)] (i) "Animal" means any live, nonhuman vertebrate creature, including fowl.

9103 [(b)] (ii) "Sexual activity" means physical sexual contact:

9104 [(i)] (A) between the actor and the animal involving the genitals of the actor and

9105 the genitals of the animal;

9106 [(ii)] (B) the genitals of the actor or the animal and the mouth or anus of the actor

9107 or the animal; or
9108 [(iii)] (C) through the actor's use of an object in contact with the genitals or anus of
9109 the animal.

9110 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
9111 section.

9112 (2) An actor commits bestiality if the actor engages in sexual activity with an animal with
9113 the intent to sexually gratify the actor.

9114 (3) A [~~crime of bestiality~~] violation of Subsection (2) is a class B misdemeanor.

9115 Section 250. Section **76-13-214**, which is renumbered from Section 76-9-308 is renumbered
9116 and amended to read:

9117 **[76-9-308]76-13-214 . Harassment of livestock.**

9118 (1)(a) As used in this section:

9119 [(a)] (i) "Livestock" [~~has the same meaning~~] means the same as that term is defined in [
9120 Subsection 76-9-301(1)] Section 76-13-202.

9121 [(b)] (ii) "Unmanned aircraft system" means the same as that term is defined in
9122 Section 72-10-102.

9123 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
9124 section.

9125 (2) Except as provided in Subsection [(3), a person is guilty of] (4), an actor commits
9126 harassment of livestock if the [person] actor intentionally, knowingly, or recklessly
9127 chases, with the intent of causing distress, or harms livestock through the use of:

9128 (a) a motorized vehicle or all-terrain vehicle;

9129 (b) a dog; or

9130 (c) an unmanned aircraft system.

9131 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
9132 misdemeanor if:

9133 (i) no livestock is seriously injured or killed as a result of the actor's actions; or

9134 (ii) the actor's actions cause the livestock to be displaced onto property where the
9135 livestock is not legally entitled to be.

9136 (b) A violation of Subsection (2) is a class A misdemeanor if:

9137 (i) the offense is the actor's second or subsequent offense;

9138 (ii) livestock is seriously injured or killed as a result of the actor's actions; or

9139 (iii) livestock or property suffered damage in excess of \$1,000, including money
9140 spent in recovering the livestock, as a result of the actor's actions.

9141 ~~[(3)]~~ (4) ~~[A person is not guilty of harassment of livestock]~~ An actor does not commit a
 9142 violation of Subsection (2) if:

9143 (a) the ~~[person]~~ actor is:

9144 (i) the owner of the livestock;

9145 (ii) an employee or agent of the owner, or otherwise acting under the owner's general
 9146 direction or with the owner's permission;

9147 (iii) acting in an emergency situation to prevent damage to the livestock or property;
 9148 or

9149 (iv) an employee or agent of the state or a political subdivision and acting in the
 9150 employee or agent's official capacity; or

9151 (b) the action is in line with generally accepted animal husbandry practices.

9152 ~~[(4) A person who violates this section is guilty of:]~~

9153 ~~[(a) a class B misdemeanor if the violation is a first offense and:]~~

9154 ~~[(i) no livestock is seriously injured or killed as a result of the person's actions; or]~~

9155 ~~[(ii) the person's actions cause the livestock to be displaced onto property where the~~
 9156 ~~livestock is not legally entitled to be; and]~~

9157 ~~[(b) a class A misdemeanor if:]~~

9158 ~~[(i) the person has previously been convicted of harassment of livestock under this section;]~~

9159 ~~[(ii) livestock is seriously injured or killed as a result of the person's actions; or]~~

9160 ~~[(iii) livestock or property suffered damage in excess of \$1,000, including money spent in~~
 9161 ~~recovering the livestock, as a result of the person's actions.]~~

9162 Section 251. Section **76-13-215**, which is renumbered from Section 76-9-301.9 is renumbered
 9163 and amended to read:

9164 ~~[76-9-301.9]~~ **76-13-215 . Failure of an animal care facility to maintain required**
 9165 **standards.**

9166 (1)(a) As used in this section:

9167 ~~[(a)]~~ (i) "Animal care facility" means an animal rescue, animal sanctuary, or animal
 9168 shelter.

9169 ~~[(b)]~~ (ii) "Animal rescue" means a person that:

9170 ~~[(i)]~~ (A) accepts companion animals for the purpose of finding a permanent home
 9171 for each companion animal;

9172 ~~[(ii)]~~ (B) does not maintain a central facility for keeping companion animals; and

9173 ~~[(iii)]~~ (C) uses a system of temporarily fostering the companion animals in a
 9174 private residence or boarding facility.

- 9175 [(e)] (iii) "Animal sanctuary" means a nonprofit entity, other than a government
 9176 entity, that:
- 9177 [(i)] (A) harbors companion animals; and
 9178 [(ii)] (B) is used exclusively for the purpose of indefinitely caring for,
 9179 rehabilitating, or housing companion animals.
- 9180 [(d)] (iv)[(i)] (A) "Animal shelter" means the same as that term is defined in
 9181 Section 11-46-102.
 9182 [(ii)] (B) "Animal shelter" does not include an animal rescue.
- 9183 [(e)] (v) "Boarding facility" means a facility where a companion animal is kept for the
 9184 purpose of caring for the companion animal.
- 9185 [(f)] (vi) "Companion animal" means an animal that is a domestic dog or a domestic
 9186 cat.
- 9187 [(g)] (vii) "Facility" means a location other than a private residence.
- 9188 (2) An actor commits failure of an animal care facility to maintain required standards if the
 9189 actor:
- 9190 (a) is an animal care facility; and
- 9191 (b) ~~[For a dog in an animal care facility's possession, the animal care facility shall]~~ fails
 9192 to:
- 9193 (i) ensure that:
- 9194 [(a)] (A) a female dog does not produce more than one litter in any twelve-month
 9195 period, unless a licensed veterinarian has examined the female dog and has
 9196 determined that it is safe for the dog to produce more than one litter in a
 9197 twelve-month period; ~~[and]~~ or
- 9198 [(b)] (B) a dog under eight weeks of age or a dog not properly weaned is not sold~~[-]~~ ;
 9199 or
- 9200 [(3)] (ii) ~~[An animal care facility shall]~~ keep records:
- 9201 [(a)] (A) identifying, to the best of the animal care facility's knowledge, an
 9202 animal's owner at the time the animal care facility acquires the animal; ~~[and]~~ or
- 9203 [(b)] (B) documenting dangerous behaviors, if any, health conditions, and medical
 9204 care for an animal in the animal care facility's possession.
- 9205 [(4)] (3)[(a) ~~An animal care facility's violation of a requirement described in this section]~~
 9206 A violation of Subsection (2) is an infraction subject to a fine of \$750.
- 9207 [(b)] (4) A prosecution under this section does not preclude a prosecution for any other
 9208 criminal offense.

- 9209 (5) It is a defense to [~~the penalty imposed~~] a prosecution under this section that the conduct
9210 of the actor toward the animal was:
- 9211 (a) performed by a licensed veterinarian using accepted veterinary practice;
- 9212 (b) directly related to bona fide experimentation for scientific research, provided that if
9213 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
9214 unless directly necessary to the veterinary purpose or scientific research involved;
- 9215 (c) permitted under Section 18-1-3;
- 9216 (d) performed by a person who humanely destroys [~~any~~] an animal found suffering past
9217 recovery for any useful purpose; or
- 9218 (e) performed by a person who humanely destroys [~~any~~] an apparently abandoned animal
9219 found on the person's property.
- 9220 (6) This section does not prohibit the use of animals in lawful training.
- 9221 (7) A veterinarian who, acting in good faith, reports a violation of this section to law
9222 enforcement or the Department of Agriculture and Food in accordance with Section
9223 4-2-903 may not be held civilly liable for making the report.
- 9224 Section 252. Section **76-14-101** is enacted to read:

9225 **CHAPTER 14. OFFENSES RELATED TO IMMIGRATION STATUS**

9226 **Part 1. General Provisions**

9227 **76-14-101 . Definitions.**

9228 Reserved.

9229 Section 253. Section **76-14-201**, which is renumbered from Section 76-9-1002 is renumbered
9230 and amended to read:

9231 **Part 2. Offenses Related to Immigration Status**

9232 **~~[76-9-1002]~~76-14-201 . Definitions.**

9233 As used in this part:

- 9234 (1) "Alien" means [~~a person~~] an individual who is not a citizen or national of the United
9235 States of America.
- 9236 (2) "ICE" means the federal Immigration and Customs Enforcement agency of the United
9237 States Department of Homeland Security.
- 9238 (3) "Law enforcement officer" has the same meaning as in Section 53-13-103.
- 9239 (4) "SAVE program" means the federal Systematic Alien Verification for Entitlements
9240 program operated by the federal Department of Homeland Security.

- 9241 (5) "State or local governmental agency" includes ~~[any]~~ a private contractor or vendor that
9242 contracts with the agency to provide the agency's functions or services.
- 9243 (6) "Verify immigration status" or "verification of immigration status" means the
9244 determination of ~~[a person's]~~ an individual's immigration status by:
- 9245 (a) a law enforcement officer who is authorized by a federal agency to determine an
9246 alien's immigration status; or
- 9247 (b) the United States Department of Homeland Security, ICE, or other federal agency
9248 authorized to provide immigration status as provided by 8 U.S.C. Sec. 1373(c).
- 9249 Section 254. Section **76-14-202**, which is renumbered from Section 76-9-1003 is renumbered
9250 and amended to read:
- 9251 **[76-9-1003]76-14-202 . Detention or arrest -- Determination of immigration**
9252 **status.**
- 9253 (1)(a) Except as provided in Subsection (1)(b), (c), or (d), ~~[any]~~ a law enforcement
9254 officer who, acting in the enforcement of ~~[any]~~ a state law or local ordinance,
9255 conducts ~~[any]~~ a lawful stop, detention, or arrest of ~~[a person]~~ an individual as
9256 specified in Subsection (1)(a)(i) or (ii), and the ~~[person]~~ individual is unable to
9257 provide to the law enforcement officer a document listed in Subsection ~~[76-9-1004(1)]~~
9258 76-14-203(1) and the law enforcement officer is otherwise unable to verify the
9259 identity of the ~~[person]~~ individual, the law enforcement officer:
- 9260 (i) shall request verification of the citizenship or the immigration status of the ~~[person]~~
9261 individual under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b),
9262 (c), or (d), if the ~~[person]~~ individual is arrested for an alleged offense that is a class
9263 A misdemeanor or a felony; and
- 9264 (ii) may attempt to verify the immigration status of the ~~[person]~~ individual, except as
9265 exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or
9266 C misdemeanor, except that if the ~~[person]~~ individual is arrested and booked for a
9267 class B or C misdemeanor, the arresting law enforcement officer or the law
9268 enforcement agency booking the ~~[person]~~ individual shall attempt to verify the
9269 immigration status of the ~~[person]~~ individual.
- 9270 (b) In individual cases, the law enforcement officer may forego the verification of
9271 immigration status under Subsection (1)(a) if the determination could hinder or
9272 obstruct a criminal investigation.
- 9273 (c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a
9274 school resource officer for ~~[any]~~ an elementary or secondary school.

9275 (d) Subsection (1)(a) does not apply to a county or municipality when it has only one
 9276 law enforcement officer on duty and response support from another law enforcement
 9277 agency is not available.

9278 (2) When a law enforcement officer makes a lawful stop, detention, or arrest under
 9279 Subsection (1) of the operator of a vehicle, and while investigating or processing the
 9280 primary offense, the law enforcement officer makes observations that give the law
 9281 enforcement officer reasonable suspicion that the operator or any of the passengers in
 9282 the vehicle are violating Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310,
 9283 76-5-310.1, or ~~[76-10-2901]~~ 76-14-109, which concern smuggling, human trafficking, [
 9284 ~~and~~] or transporting illegal aliens, the law enforcement officer shall, to the extent
 9285 possible within a reasonable period of time:

9286 (a) detain the occupants of the vehicle to investigate the suspected violations; and

9287 (b) inquire regarding the immigration status of the occupants of the vehicle.

9288 (3) When ~~[a person]~~ an individual under Subsection (1) is arrested or booked into a jail,
 9289 juvenile detention facility, or correctional facility, the arresting officer or the booking
 9290 officer shall ensure that a request for verification of immigration status of the arrested or
 9291 booked ~~[person]~~ individual is submitted as promptly as is reasonably possible.

9292 (4) The law enforcement agency that has custody of ~~[a person]~~ an individual verified to be
 9293 an illegal alien shall request that the United States Department of Homeland Security
 9294 issue a detainer requesting transfer of the illegal alien into federal custody.

9295 (5) A law enforcement officer may not consider race, color, or national origin in
 9296 implementing this section, except to the extent permitted by the constitutions of the
 9297 United States and this state.

9298 Section 255. Section **76-14-203**, which is renumbered from Section 76-9-1004 is renumbered
 9299 and amended to read:

9300 ~~[76-9-1004]~~ **76-14-203 . Grounds for presumption of lawful presence in United**
 9301 **States -- Statement to officer.**

9302 (1) ~~[A person-]~~ An individual is presumed to be lawfully present in the United States for the
 9303 purposes of this ~~[part]~~ chapter if the ~~[person]~~ individual provides one of the following
 9304 documents to the law enforcement officer, unless the law enforcement officer has a
 9305 reasonable suspicion that the document is false or identifies ~~[a person]~~ an individual
 9306 other than the ~~[person]~~ individual providing the document:

9307 (a) a valid Utah driver license issued on or after January 1, 2010;

9308 (b) a valid Utah identification card issued under Section 53-3-804 and issued on or after

- 9309 January 1, 2010;
- 9310 (c) a valid tribal enrollment card or other valid form of tribal membership identification
- 9311 that includes photo identification;
- 9312 (d) a valid identification document that:
- 9313 (i) includes a photo or biometric identifier of the holder of the document; and
- 9314 (ii) is issued by a federal, state, or local governmental agency that requires proof or
- 9315 verification of legal presence in the United States as a condition of issuance of the
- 9316 document; or
- 9317 (e) a valid resident immigrant permit issued under Section 63G-14-204.

9318 (2) ~~[A person]~~ An individual is presumed to be a citizen or national of the United States for

9319 purposes of this part if the ~~[person]~~ individual makes a statement or affirmation to the

9320 law enforcement officer that the ~~[person]~~ individual is a United States citizen or national,

9321 unless the officer has a reasonable suspicion that the statement or affirmation is false.

9322 Section 256. Section **76-14-204**, which is renumbered from Section 76-9-1005 is renumbered

9323 and amended to read:

9324 ~~[76-9-1005]~~ **76-14-204 . Illegal alien -- Notification of federal government --**

9325 **Transportation to federal facility.**

9326 A state or local law enforcement agency may securely transport an alien who is in the

9327 agency's custody and whom the agency has verified is unlawfully present in the United

9328 States to:

- 9329 -
- 9330 (1) a federal detention facility in this state; or~~[-]~~
- 9331 (2) with the concurrence of the receiving federal agency, to a federal facility or other point
- 9332 of transfer to federal custody that is outside this state.

9333 Section 257. Section **76-14-205**, which is renumbered from Section 76-9-1006 is renumbered

9334 and amended to read:

9335 ~~[76-9-1006]~~ **76-14-205 . Enforcement of federal immigration laws.**

9336 A state or local governmental agency of this state, or ~~[any]~~ a representative of the

9337 agency, may not:

- 9338 (1) limit or restrict by ordinance, regulation, or policy the authority of ~~[any]~~ a law
- 9339 enforcement agency or other governmental agency to assist the federal government in
- 9340 the enforcement of any federal law or regulation governing immigration; or
- 9341 (2) limit or restrict by ordinance, regulation, or policy the authority of ~~[any]~~ a law
- 9342 enforcement agency to investigate or enforce ~~[any]~~ a violation of the federal

9343 misdemeanor offenses of willful failure to register as an alien or willful failure to
9344 personally possess an alien registration document as required by 8 U.S.C. Sec. 1304(e)
9345 or 1306(a).

9346 Section 258. Section **76-14-206**, which is renumbered from Section 76-9-1007 is renumbered
9347 and amended to read:

9348 **~~[76-9-1007]~~ 76-14-206 . Determining an alien's immigration status -- Transfer or
9349 maintenance of information.**

9350 Except as limited by federal law, ~~[any]~~ a state or local governmental agency is not
9351 restricted or prohibited in any way from sending, receiving, or maintaining information
9352 related to the lawful or unlawful immigration status of ~~[any person]~~ an individual by
9353 communicating with ~~[any]~~ a federal, state, or local governmental entity for ~~[any]~~ a lawful
9354 purpose, including:

- 9355 (1) determining ~~[a person's]~~ an individual's eligibility for ~~[any]~~ a public benefit, service, or
9356 license provided by ~~[any]~~ a federal agency, by this state, or by ~~[any]~~ a political
9357 subdivision of this state;
- 9358 (2) confirming ~~[a person's]~~ an individual's claim of residence or domicile if determination is
9359 required by state law or a judicial order issued pursuant to a civil or criminal proceeding
9360 in this state;
- 9361 (3) if the ~~[person]~~ individual is an alien, determining if the ~~[person]~~ individual is in
9362 compliance with the federal registration laws of Title II, Part 7, Immigration and
9363 Nationality Act; or
- 9364 (4) a valid request for verification of the citizenship or immigration status of ~~[any person]~~ an
9365 individual pursuant to 8 U.S.C. Sec. 1373.

9366 Section 259. Section **76-14-207**, which is renumbered from Section 76-9-1008 is renumbered
9367 and amended to read:

9368 **~~[76-9-1008]~~ 76-14-207 . Proof of immigration status required to receive public
9369 benefits.**

9370 (1)(a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec.
9371 1621 shall comply with Section 63G-12-402 and shall also comply with this section,
9372 except:

- 9373 (i) as provided in Subsection 63G-12-402(3)(g) or (k); or
- 9374 (ii) when compliance is exempted by federal law or when compliance could
9375 reasonably be expected to be grounds for the federal government to withhold
9376 federal Medicaid funding.

- 9377 (b) The agency shall verify [~~a person's~~] an individual's lawful presence in the United
9378 States by requiring that the applicant under this section sign a certificate under
9379 penalty of perjury, stating that the applicant:
- 9380 (i) is a United States citizen; or
9381 (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.
- 9382 (c) The certificate under Subsection (1)(b) shall include a statement advising the signer
9383 that providing false information subjects the signer to penalties for perjury.
- 9384 (d) The signature under this Subsection (1) may be executed in person or electronically.
- 9385 (e) When an applicant who is a qualified alien has executed the certificate under this
9386 section, the applicant's eligibility for benefits shall be verified by the agency through
9387 the federal SAVE program or an equivalent program designated by the United States
9388 Department of Homeland Security.
- 9389 (2) [~~Any person~~] An individual who knowingly and willfully makes a false, fictitious, or
9390 fraudulent statement of representation in a certificate executed under this section is
9391 guilty of public assistance fraud by an applicant for public assistance under Section
9392 76-8-1203.1.
- 9393 (3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C.
9394 Sec. 911, the agency requiring the certificate shall file a complaint with the United
9395 States Attorney for the applicable federal judicial district based upon the venue in which
9396 the certificate was executed.
- 9397 (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to
9398 the requirements of the provisions of this section that provide for adjudication of unique
9399 individual circumstances [~~where~~] in which the verification procedures in this section
9400 would impose unusual hardship on a legal resident of this state.
- 9401 (5) If an agency under Subsection (1) receives verification that [~~a person~~] an individual
9402 making an application for [~~any~~] a benefit, service, or license is not a qualified alien, the
9403 agency shall provide the information to the local law enforcement agency for
9404 enforcement of public assistance fraud by an applicant for public assistance under
9405 Section 76-8-1203.1 unless prohibited by federal mandate.
- 9406 Section 260. Section **76-14-208**, which is renumbered from Section 76-9-1009 is renumbered
9407 and amended to read:
- 9408 **[76-9-1009]76-14-208 . Implementation to be consistent with federal law and**
9409 **civil rights.**
- 9410 All state and local agencies shall implement this part in a manner that is consistent

9411 with federal laws that regulate immigration, protect the civil rights of all ~~[persons]~~
9412 individuals, and establish the privileges and immunities of United States citizens.

9413 Section 261. Section **76-14-209**, which is renumbered from Section 76-10-2901 is renumbered
9414 and amended to read:

9415 **[76-10-2901] 76-14-209 . Transporting or harboring an alien.**

9416 (1)(a) As used in this ~~[part]~~ section:

9417 ~~[(a)]~~ (i) Except as provided in Subsection ~~[(1)(b)]~~ (1)(a)(ii), "alien" means an
9418 individual who is illegally present in the United States.

9419 ~~[(b)]~~ (ii) On or after the program start date, as defined in Section 63G-12-102, "alien"
9420 does not include an individual who holds a valid permit, as defined in Section
9421 63G-12-102.

9422 (b) Terms defined in Sections 76-1-101.5, 76-14-101, and 76-14-201 apply to this
9423 section.

9424 (2) ~~[It is unlawful for a person to]~~ An actor commits transporting or harboring an alien if the
9425 actor:

9426 (a) ~~[transport, move, or attempt-]~~ transports, moves, or attempts to transport into this state
9427 or within the state an alien for commercial advantage or private financial gain,
9428 knowing or in reckless disregard of the fact that the alien is in the United States in
9429 violation of federal law, in furtherance of the illegal presence of the alien in the
9430 United States;

9431 (b) knowingly, with the intent to violate federal immigration law, ~~[conceal, harbor, or~~
9432 ~~shelter]~~ conceals, harbors, or shelters from detection an alien in a place within this
9433 state, including a building or means of transportation for commercial advantage or
9434 private financial gain, knowing or in reckless disregard of the fact that the alien is in
9435 the United States in violation of federal law;

9436 (c) ~~[encourage or induce-]~~ encourages or induces an alien to come to, enter, or reside in
9437 this state, knowing or in reckless disregard of the fact that the alien's coming to,
9438 entry, or residence is or will be in violation of law; or

9439 (d) ~~[engage-]~~ engages in a conspiracy, for commercial advantage or private financial
9440 gain, to commit any of the offenses listed in ~~[this-]~~ Subsection (2)(a), (b), or (c).

9441 (3)(a) [A person who violates-] A violation of Subsection (2)(a), (c), or (d) is [guilty of-]
9442 a third degree felony.

9443 (b) [A person who violates-] A violation of Subsection (2)(b) is [guilty of-] a class A
9444 misdemeanor.

- 9445 (4) Nothing in this [part] section prohibits or restricts the provision of:
- 9446 (a) a state or local public benefit described in 8 U.S.C. Sec. 1621(b); or
- 9447 (b) charitable or humanitarian assistance, including medical care, housing, counseling,
- 9448 food, victim assistance, religious services and sacraments, [~~and~~] or transportation to
- 9449 and from a location where the assistance is provided, by a charitable, educational, or
- 9450 religious organization or [its] the employees, agents, or volunteers of a charitable,
- 9451 educational, or religious organization, using private funds.
- 9452 (5)(a) It is not a violation of this [part] section for a religious denomination or
- 9453 organization or an agent, officer, or member of a religious denomination or
- 9454 organization to encourage, invite, call, allow, or enable an alien to perform the
- 9455 vocation of a minister or missionary for the denomination or organization in the
- 9456 United States as a volunteer who is not compensated as an employee,
- 9457 notwithstanding the provision of room, board, travel, medical assistance, and other
- 9458 basic living expenses.
- 9459 (b) Subsection (5)(a) applies only to an alien who has been a member of the religious
- 9460 denomination or organization for at least one year.
- 9461 (6) An individual's participation in Title 63G, Chapter 14, Utah Pilot Sponsored Resident
- 9462 Immigrant Program Act, either as a sponsor or resident alien, does not constitute
- 9463 encouraging or inducing an alien to come to, enter, or reside in this state in violation of
- 9464 Subsection (2)(c).

9465 Section 262. Section **76-15-101** is enacted to read:

9466 **CHAPTER 15. EXPLOSIVES AND WEAPONS OF MASS DESTRUCTION**

9467 **Part 1. General Provisions**

9468 **76-15-101 . Definitions.**

9469 Reserved.

9470 Section 263. Section **76-15-201** is enacted to read:

9471 **Part 2. Explosives**

9472 **76-15-201 . Definitions.**

9473 Reserved.

9474 Section 264. Section **76-15-202**, which is renumbered from Section 76-10-308 is renumbered

9475 and amended to read:

9476 **[76-10-308]76-15-202 . Venue of prosecution for delivering for transmission an**

9477 **explosive, chemical, or incendiary device.**

9478 [Any person] An actor who knowingly, intentionally, or recklessly delivers [any] an
9479 explosive, chemical, or incendiary device to any person for transmission without the
9480 consent or direction of the lawful possessor may be prosecuted;

9481 -

9482 (1) in the county in which [he] the actor delivers [it] the explosive, chemical, or incendiary
9483 device; or

9484 (2) in the county to which [it] the explosive, chemical, or incendiary device is transmitted.

9485 Section 265. Section **76-15-203**, which is renumbered from Section 76-10-302 is renumbered
9486 and amended to read:

9487 **[76-10-302]76-15-203 . Unlawful failure to mark a container of explosives before**
9488 **transportation or storage.**

9489 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9490 (2) ~~[Every person who]~~ An actor commits unlawful failure to mark a container of
9491 explosives before transportation or storage if the actor knowingly leaves with or delivers
9492 to another, or to [any] an express or railway company or other common carrier, or to [any]
9493 a warehouse or storehouse, [any] a package containing nitroglycerin, dynamite,
9494 gun cotton, gunpowder, or other highly explosive compound, or any benzine, gasoline,
9495 phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric,
9496 carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled,
9497 stored, shipped, or transported, without plainly marking and indicating on [such] the
9498 package the name and nature of the contents [thereof, is guilty of] inside the package.

9499 (3) A violation of Subsection (2) is a class B misdemeanor.

9500 Section 266. Section **76-15-204**, which is renumbered from Section 76-10-303 is renumbered
9501 and amended to read:

9502 **[76-10-303]76-15-204 . Unlawful construction or use of a powder house.**

9503 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9504 (2) ~~[Every person who]~~ An actor commits unlawful construction or use of a powder
9505 house if the actor builds, constructs, or uses within 300 feet of [any] a residence or
9506 traveled county road [any] a powder house, magazine, or building in which powder,
9507 dynamite, or other explosive is kept in quantities exceeding 500 pounds[is guilty of a
9508 class B misdemeanor; provided that this section shall not apply to any magazine
9509 maintained at any mine or stone quarry].

9510 (3) A violation of Subsection (2) is a class B misdemeanor.

9511 (4) This section does not apply to a magazine maintained at a mine or stone quarry.

9512 Section 267. Section **76-15-205**, which is renumbered from Section 76-10-304 is renumbered
9513 and amended to read:

9514 ~~[76-10-304]~~ **76-15-205 . Unlawful failure to mark a container of a high explosive**
9515 **held for sale or use.**

9516 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9517 (2) ~~[It shall be a class A misdemeanor to sell or offer-]~~ An actor commits unlawful
9518 failure to mark a container of a high explosive for sale or use if the actor:

9519 (a) sells or offers for sale, or [take or solicit] takes or solicits orders of sale, or [purchase
9520 or use, or have] purchases or uses, or has on hand or in store for the purpose of sale or
9521 use, [any] a giant, hercules, atlas, venture or any other high explosive containing
9522 nitroglycerin; and

9523 (b) fails to plainly stamp or print[-, unless] on each box or package and wrapper
9524 containing [any such] the high explosive;

9525 (i) ~~[there shall be plainly stamped or printed-]~~ the name and place of business of the
9526 person, partnership, or corporation by whom or by which [it] the high explosive
9527 was manufactured[-, and] ;

9528 (ii) the exact and true date of [its] the high explosive's manufacture[-] ; and

9529 (iii) the percentage of nitroglycerin or other high explosive contained [therein] within
9530 the box or package.

9531 (3) A violation of Subsection (2) is a class A misdemeanor.

9532 Section 268. Section **76-15-206**, which is renumbered from Section 76-10-305 is renumbered
9533 and amended to read:

9534 ~~[76-10-305]~~ **76-15-206 . Unlawful combination of dates in a box or package of**
9535 **high explosives.**

9536 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9537 (2) ~~[It shall be unlawful for any person or persons, partnership, or corporation to have-]~~

9538 An actor commits unlawful combination of dates in a box or package of high explosives
9539 if the actor puts two or more different dates on [any] a box or package containing a giant,
9540 hercules, atlas, or venture, or any other high explosive containing nitroglycerin. [It shall
9541 further be unlawful to use any box, package, or wrapper formerly used by any other
9542 person or persons, partnership, or corporation in the packing of such giant, herecules,
9543 atlas, venture, or other high explosive containing nitroglycerin, and the name and date
9544 on the box or package shall be the same as on the wrapper containing the giant, hercules,

9545 atlas, venture, or other explosive containing nitroglycerin.]

9546 (3) A violation of Subsection (2) is a class A misdemeanor.

9547 Section 269. Section **76-15-207** is enacted to read:

9548 **76-15-207 . Unlawful reuse of a high explosive box, package, or wrapper.**

9549 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9550 (2) An actor commits unlawful reuse of a high explosive box, package, or wrapper if the
9551 actor uses a box, package, or wrapper that was formerly used by another person in the
9552 packing of a giant, hercules, atlas, venture, or other high explosive containing
9553 nitroglycerin.

9554 (3) A violation of Subsection (2) is a class A misdemeanor.

9555 Section 270. Section **76-15-208** is enacted to read:

9556 **76-15-208 . Unlawful failure to have a high explosive box or package match an**
9557 **enclosed high explosive wrapper.**

9558 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9559 (2) An actor commits unlawful failure to have a high explosive box or package match an
9560 enclosed high explosive wrapper if the actor:

9561 (a) puts a giant, hercules, atlas, venture, or other explosive containing nitroglycerin
9562 inside a box or package; and

9563 (b) the name and date on the box or package do not match the name and date on the
9564 wrapper containing the high explosive.

9565 (3) A violation of Subsection (2) is a class A misdemeanor.

9566 Section 271. Section **76-15-209**, which is renumbered from Section 76-10-307 is renumbered
9567 and amended to read:

9568 **[76-10-307]76-15-209 . Unlawful delivery or mailing of an explosive, chemical, or**
9569 **incendiary device.**

9570 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

9571 (2) An actor commits unlawful delivery or mailing of an explosive, chemical, or incendiary
9572 device if the actor:

9573 (a) [Any person is guilty of a felony of the second degree who-]delivers or causes to
9574 be delivered to [any] an express or railway company or other common carrier, or to
9575 any person, [any] an explosive, chemical, or incendiary device[-, knowing it-] ;

9576 (b) knows the explosive, chemical, or incendiary device to be [the] an explosive,
9577 chemical, or incendiary device[-, without informing] ; and

9578 (c)(i) fails to inform the common carrier or person [of its nature] that the item is an

9579 explosive, chemical, or incendiary device; or
9580 (ii) sends [it] the explosive, chemical, or incendiary device through the mail.

9581 (3) A violation of Subsection (2) is a second degree felony.

9582 Section 272. Section **76-15-210**, which is renumbered from Section 76-10-306 is renumbered
9583 and amended to read:

9584 **[76-10-306] 76-15-210 . Unlawful conduct involving an explosive, chemical, or**
9585 **incendiary device.**

9586 (1)(a) As used in this section:

9587 [(a)] (i)(A) "Explosive, chemical, or incendiary device" means:

9588 [(i)] (I) dynamite and all other forms of high explosives, including water gel,
9589 slurry, military C-4 (plastic explosives), blasting agents to include
9590 nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and
9591 boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding
9592 cords commonly called detonating cord, detcord, or primacord, picric acid
9593 explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin
9594 mixtures, or any other chemical mixture intended to explode with fire or
9595 force;

9596 [(ii)] (II) any explosive bomb, grenade, missile, or similar device; [and] or

9597 [(iii)] (III) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar
9598 device, including any device, except kerosene lamps, if criminal intent has
9599 not been established, which consists of or includes a breakable container
9600 including a flammable liquid or compound and a wick composed of any
9601 material which, when ignited, is capable of igniting the flammable liquid or
9602 compound or any breakable container which consists of, or includes a
9603 chemical mixture that explodes with fire or force and can be carried,
9604 thrown, or placed.

9605 [(b)] (ii) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or
9606 shotgun ammunition, reloading components, or muzzleloading equipment.

9607 [(c) ~~"Explosive, chemical, or incendiary parts" means any substances or materials or~~
9608 ~~combinations which have been prepared or altered for use in the creation of an~~
9609 ~~explosive, chemical, or incendiary device. These substances or materials include:]~~

9610 [(i) ~~timing device, clock, or watch which has been altered in such a manner as to be~~
9611 ~~used as the arming device in an explosive;]~~

9612 [(ii) ~~pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and]~~

9613 [~~(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time~~
9614 ~~delays, or commercially made or improvised items which, when used singly or in~~
9615 ~~combination, may be used in the construction of a timing delay mechanism, booby~~
9616 ~~trap, or activating mechanism for any explosive, chemical, or incendiary device.]~~

9617 [~~(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or~~
9618 ~~shotgun ammunition, or any signaling device customarily used in operation of~~
9619 ~~railroad equipment.]~~

9620 (b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this
9621 section.

9622 (2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary
9623 device if, under circumstances not amounting to a violation of Part 2, Weapons of Mass
9624 Destruction, the actor:

9625 (a) intentionally, knowingly, or recklessly:

9626 (i) possesses or controls an explosive, chemical, or incendiary device; or

9627 (ii) removes or causes to be removed or carries away an explosive, chemical, or
9628 incendiary device from the premises where the explosive, chemical, or incendiary
9629 device is kept by the lawful user, vendor, transporter, or manufacturer, without the
9630 consent or direction of the lawful possessor; or

9631 (b) intentionally or knowingly:

9632 (i) uses or causes to be used an explosive, chemical, or incendiary device in the
9633 commission of or an attempt to commit a felony;

9634 (ii) injures another or attempts to injure another person or another person's property
9635 through the use of an explosive, chemical, or incendiary device; or

9636 (iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary
9637 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3,
9638 76-11-215, or 78A-2-203.

9639 (3)(a) A violation of Subsection (2)(a) is a second degree felony.

9640 (b) A violation of Subsection (2)(b) is a first degree felony.

9641 [(2)] (4) The provisions in [Subsections (3) and (6)] Subsection (2)(a)(i) do not apply to:

9642 (a) [any-] a public safety officer while acting in an official capacity transporting or
9643 otherwise handling [explosives, chemical, or incendiary devices] an explosive,
9644 chemical, or incendiary device;

9645 (b) [any-] a member of the armed forces of the United States or Utah National Guard
9646 while acting in an official capacity;

- 9647 (c) ~~[any]~~ a person possessing a valid permit issued under the provisions of the
9648 International Fire Code, Section 105 and Chapter 56, or ~~[any]~~ an employee of the
9649 permittee acting within the scope of employment;
- 9650 (d) ~~[any]~~ a person possessing a valid license as an importer, wholesaler, display operator,
9651 special effects operator, or flame effects operator under the provisions of Sections
9652 11-3-3.5 and 53-7-223; ~~[and]~~ or
- 9653 (e) ~~[any]~~ a person or entity possessing or controlling an explosive, chemical, or
9654 incendiary device as part of ~~[its]~~ the person's or entity's lawful business operations.
- 9655 ~~[(3) Any person is guilty of a second degree felony who, under circumstances not
9656 amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly,
9657 intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary
9658 device.]~~
- 9659 ~~[(4) Any person is guilty of a first degree felony who, under circumstances not amounting
9660 to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:]~~
- 9661 ~~[(a) uses or causes to be used an explosive, chemical, or incendiary device in the
9662 commission of or an attempt to commit a felony;]~~
- 9663 ~~[(b) injures another or attempts to injure another person or another person's property
9664 through the use of an explosive, chemical, or incendiary device; or]~~
- 9665 ~~[(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary
9666 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3,
9667 76-10-529, or 78A-2-203.]~~
- 9668 ~~[(5) Any person who, under circumstances not amounting to a violation of Part 4,
9669 Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes
9670 to be removed or carries away any explosive, chemical, or incendiary device from the
9671 premises where the explosive, chemical, or incendiary device is kept by the lawful user,
9672 vendor, transporter, or manufacturer without the consent or direction of the lawful
9673 possessor is guilty of a second degree felony.]~~
- 9674 ~~[(6) Any person who, under circumstances not amounting to a violation of Part 4,
9675 Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any
9676 explosive, chemical, or incendiary parts is guilty of a third degree felony.]~~
- 9677 Section 273. Section **76-15-211** is enacted to read:
- 9678 **76-15-211 . Unlawful conduct involving an explosive, chemical, or incendiary**
9679 **part.**
- 9680 (1)(a) As used in this section:

- 9681 (i) "Explosive, chemical, or incendiary device" means the same as that term is
9682 defined in Section 76-15-210.
- 9683 (ii)(A) "Explosive, chemical, or incendiary part" means an explosive, chemical,
9684 or incendiary part substance or material, or combination of explosive,
9685 chemical, or incendiary part substances or materials, that has been prepared or
9686 altered for use in the creation of an explosive, chemical, or incendiary device.
- 9687 (B) "Explosive, chemical, or incendiary part" does not include rifle, pistol, or
9688 shotgun ammunition, or any signaling device customarily used in operation of
9689 railroad equipment.
- 9690 (iii) "Explosive, chemical, or incendiary part substance or material" includes:
- 9691 (A) a timing device, clock, or watch that has been altered in such a manner as to
9692 be used as the arming device in an explosive;
- 9693 (B) a pipe, end cap, or metal tubing that has been prepared for a pipe bomb; and
- 9694 (C) a mechanical timer, mechanical trigger, chemical time delay, electronic time
9695 delay, or commercially made or improvised items that, when used singly or in
9696 combination, may be used in the construction of a timing delay mechanism,
9697 booby trap, or activating mechanism for an explosive, chemical, or incendiary
9698 device.
- 9699 (b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this
9700 section.
- 9701 (2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary
9702 part if, under circumstances not amounting to a violation of Part 2, Weapons of Mass
9703 Destruction, the actor intentionally, knowingly, or recklessly possesses an explosive,
9704 chemical, or incendiary part.
- 9705 (3) A violation of Subsection (2) is a third degree felony.
- 9706 (4) The provisions in Subsection (2) do not apply to:
- 9707 (a) a public safety officer while acting in an official capacity transporting or otherwise
9708 handling an explosive, chemical, or incendiary device;
- 9709 (b) a member of the armed forces of the United States or Utah National Guard while
9710 acting in an official capacity;
- 9711 (c) a person possessing a valid permit issued under the provisions of the International
9712 Fire Code, Section 105 and Chapter 56, or an employee of the permittee acting
9713 within the scope of employment;
- 9714 (d) a person possessing a valid license as an importer, wholesaler, display operator,

9715 special effects operator, or flame effects operator under the provisions of Sections
9716 11-3-3.5 and 53-7-223; or

9717 (e) a person or entity possessing or controlling an explosive, chemical, or incendiary
9718 device as part of the person's or entity's lawful business operations.

9719 Section 274. Section **76-15-301**, which is renumbered from Section 76-10-401 is renumbered
9720 and amended to read:

9721 **Part 3. Weapons of Mass Destruction**

9722 **~~[76-10-401]~~ 76-15-301 . Definitions.**

9723 As used in this part:

9724 (1) "Biological agent" means ~~[any]~~ a microorganism, virus, infectious substance, or
9725 biological product that may be engineered as a result of biotechnology, or ~~[any]~~ a
9726 naturally occurring or bioengineered component of ~~[any]~~ a microorganism, virus,
9727 infectious substance, or biological product, that is capable of causing:

9728 (a) death, disease, or other biological malfunction in a human, an animal, a plant, or
9729 another living organism;

9730 (b) deterioration of food, water, equipment, supplies, or material of any kind; or

9731 (c) deleterious alteration of the environment.

9732 (2) "Delivery system" means:

9733 (a) ~~[any-]~~ an apparatus, equipment, device, or means of delivery specifically designed to
9734 deliver or disseminate a biological agent, toxin, or vector; or

9735 (b) ~~[any-]~~ a vector.

9736 (3) "Hoax weapon of mass destruction" means ~~[any]~~ a device or object that by ~~[its]~~ the
9737 device's or object's design, construction, content, or characteristics appears to be or to
9738 contain, or is represented to be, constitute, or contain, a weapon of mass destruction as
9739 defined in this section, but which is, in fact, an inoperative facsimile, imitation,
9740 counterfeit, or representation of a weapon of mass destruction ~~[which]~~ that does not:

9741 (a) meet the definition of a weapon of mass destruction; or

9742 (b) actually contain or constitute a weapon, biological agent, toxin, vector, or delivery
9743 system prohibited by this section.

9744 (4) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or
9745 infectious substances, or a recombinant molecule, whatever its origin or method of
9746 production, including:

9747 (a) ~~[any-]~~ a poisonous substance or biological product that may be engineered as a result

- 9748 of biotechnology produced by a living organism; or
- 9749 (b) ~~[any]~~ a poisonous isomer or biological product, homolog, or derivative of the
- 9750 substance under Subsection (4)(a).
- 9751 (5) "Vector" means a living organism, or molecule, including a recombinant molecule, or
- 9752 biological product that may be engineered as a result of biotechnology, capable of
- 9753 carrying a biological agent or toxin to a host.
- 9754 (6)(a) "Weapon of mass destruction" means:
- 9755 (i) ~~[any]~~ an item or instrumentality that is designed or intended to cause widespread
- 9756 death or serious bodily injury to multiple victims;
- 9757 (ii) ~~[any]~~ an item or instrumentality that is designed or intended to cause death or
- 9758 serious bodily injury through the release, dissemination, or impact of toxic or
- 9759 poisonous chemicals, or ~~[their]~~ the precursors of toxic or poisonous chemicals;
- 9760 (iii) ~~[any]~~ a disease organism, including ~~[any]~~ a biological agent, toxin, or vector [~~which~~
- 9761 that is used or intended to be used as a weapon;
- 9762 (iv) ~~[any]~~ an item or instrumentality that is designed to release radiation or
- 9763 radioactivity at a level dangerous to human life and that is used or intended to be
- 9764 used as a weapon; or
- 9765 (v) ~~[any]~~ a substance or material or combination [~~which~~] that has been prepared or
- 9766 altered for use in the creation of a weapon described in Subsections (6)(a)(i)
- 9767 through (iv).
- 9768 (b) "Weapon of mass destruction" does not include ~~[firearms]~~ a firearm or rifle, pistol, or
- 9769 shotgun ammunition, reloading components, or muzzleloading equipment.
- 9770 Section 275. Section **76-15-302**, which is renumbered from Section 76-10-402 is renumbered
- 9771 and amended to read:
- 9772 **~~[76-10-402]~~76-15-302 . Unlawful manufacture, possession, sale, use, or attempted**
- 9773 **use of a weapon of mass destruction.**
- 9774 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.
- 9775 (2) ~~[A person who]~~ An actor commits unlawful manufacture, possession, sale, use, or
- 9776 attempted use of a weapon of mass destruction if the actor, without lawful authority,
- 9777 intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses,
- 9778 attempts to use, solicits the use of, or conspires to use a weapon of mass destruction or a
- 9779 delivery system for a weapon of mass destruction, including any biological agent, toxin,
- 9780 vector, or delivery system~~[as those terms are defined in this section, is guilty of a first~~
- 9781 degree felony].

- 9782 (3) A violation of Subsection (2) is a first degree felony.
- 9783 (4) In addition to any other penalty authorized by law, a court shall order an actor convicted
9784 of a violation of this section to reimburse any federal, state, or local unit of government,
9785 or any private business, organization, individual, or entity, for all expenses and losses
9786 incurred in responding to the violation, unless the court states on the record the reasons
9787 why the reimbursement would be inappropriate.
- 9788 (5) This section does not apply to a member or employee of the Armed Forces of the United
9789 States, allied armed forces personnel, a federal or state governmental agency, or a
9790 private entity, who is engaged in lawful activity within the scope of the actor's
9791 employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver,
9792 display, or otherwise engage in activity relative to this section, and if the actor is in
9793 compliance with applicable federal and state law.

9794 Section 276. Section **76-15-303**, which is renumbered from Section 76-10-403 is renumbered
9795 and amended to read:

9796 **[76-10-403]76-15-303 . Unlawful manufacture, possession, sale, use, or attempted**
9797 **use of a hoax weapon of mass destruction.**

- 9798 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.
- 9799 (2) [Any person who] An actor commits unlawful manufacture, possession, sale, use,
9800 or attempted use of a hoax weapon of mass destruction if the actor, without lawful
9801 authority, intentionally or knowingly manufactures, possesses, sells, delivers, displays,
9802 uses, attempts to use, solicits the use of, or conspires to use a hoax weapon of mass
9803 destruction with the intent to deceive or otherwise mislead another person into believing
9804 that the hoax weapon of mass destruction is a weapon of mass destruction[is guilty of a
9805 second-degree felony].
- 9806 (3) A violation of Subsection (2) is a second degree felony.
- 9807 (4) In addition to any other penalty authorized by law, a court shall order an actor convicted
9808 of a violation of this section to reimburse any federal, state, or local unit of government,
9809 or any private business, organization, individual, or entity, for all expenses and losses
9810 incurred in responding to the violation, unless the court states on the record the reasons
9811 why the reimbursement would be inappropriate.
- 9812 (5) This section does not apply to a member or employee of the Armed Forces of the United
9813 States, allied armed forces personnel, a federal or state governmental agency, or a
9814 private entity, who is engaged in lawful activity within the scope of the actor's
9815 employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver,



9816 display, or otherwise engage in activity relative to this section, and if the actor is in
9817 compliance with applicable federal and state law.


9818 Section 277. Section **76-16-101** is enacted to read:

9819 **CHAPTER 16. OFFENSES CONCERNING BUSINESS PRACTICES**

9820 **Part 1. General Provisions**

9821 **76-16-101 . Definitions.**

9822 Reserved.

9823 Section 278. Section **76-16-201**, which is renumbered from Section  is renumbered
9824 and amended to read:

9825 **Part 2. **

9826  **76-16-201 . **

9827 


















9836  **76-16-202 . **

9837 







9841 Section 280. Section **76-16-203**, which is renumbered from Section  is renumbered
9842 and amended to read:

9843  **76-16-203 . **



9845 







9882 [Redacted]

9883 [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

9897 Section 284. Section **76-16-207**, which is renumbered from Section [Redacted] is renumbered
9898 and amended to read:

9899 [Redacted] -76-16-207 . [Redacted]

[Redacted]

9901 [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

9913 Section 285. Section **76-16-208**, which is renumbered from Section [Redacted] is renumbered
9914 and amended to read:

9915 [Redacted] -76-16-208 . [Redacted]



9916

[Redacted]

9917

[Redacted]

[Redacted]

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[Redacted]

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9934

Section 286. Section **76-16-209**, which is renumbered from Section [Redacted] is renumbered

9935

and amended to read:

9936

[Redacted] **76-16-209** . [Redacted]

[Redacted]

[Redacted]

9938

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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9987 Section 289. Section **76-16-212** is enacted to read:

9988 **76-16-212**. [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

10000 Section 290. Section **76-16-213** is enacted to read:

10001 **76-16-213**. [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]



[Redacted]

10019 Section 291. Section **76-16-214** is enacted to read:

10020 **76-16-214**. [Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

10037 Section 292. Section **76-16-215**, which is renumbered from Section [Redacted] is renumbered

10038 and amended to read:

10039 [Redacted] **76-16-215**. [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

10050 Section 293. Section **76-16-216**, which is renumbered from Section [Redacted] is renumbered

10051 and amended to read:

10085 name, or trade device if the actor:

10086 (a) willfully forges or counterfeits, or procures to be forged or counterfeited, [~~any~~] a
10087 trademark, trade name, or trade device, that:

10088 (i) is usually affixed by [~~any~~] a person to the person's goods, or by [~~any~~] an association
10089 or union of [~~workingmen, to his or its~~] working people to the association's or
10090 union's goods[;] ; and

10091 (ii) [~~which~~]has been filed with the Division of Corporations and Commercial Code[;]
10092 ; and

10093 (b) performs the action described in Subsection (2)(a) with the intent to pass off any
10094 goods to which the forged or counterfeited trademark, trade name, or trade device is
10095 affixed, or intended to be affixed, as the goods of the person or association or union
10096 of [~~workingmen, is guilty of a class B misdemeanor~~] working people.

10097 (3) A violation of Subsection (2) is a class B misdemeanor.

10098 Section 296. Section **76-16-303**, which is renumbered from Section 76-10-1003 is renumbered
10099 and amended to read:

10100 **[76-10-1003] 76-16-303 . Selling goods under a counterfeited trademark, trade**
10101 **name, or trade device.**

10102 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.[
10103 Every person who-

10104 (2) An actor commits selling goods under a counterfeited trademark, trade name, or trade
10105 device if the actor:

10106 (a) sells or keeps for sale any goods upon or to which any counterfeited trademark, trade
10107 name, or trade device has been affixed, after [it] the trademark, trade name, or trade
10108 device has been filed with the Division of Corporations and Commercial Code[;
10109 intending] ;

10110 (b) intends to represent the goods as the genuine goods of another[; knowing it to be-]
10111 person; and

10112 (c) knows the goods are counterfeited.

10113 (3) [~~is guilty of a class B misdemeanor.~~] A violation of Subsection (2) is a class B
10114 misdemeanor.

10115 Section 297. Section **76-16-304**, which is renumbered from Section 76-10-1004 is renumbered
10116 and amended to read:

10117 **[76-10-1004] 76-16-304 . Sale in a container bearing a registered trademark of a**
10118 **substituted article.**

- 10119 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.
- 10120 (2) [Every person who] An actor commits sale in a container bearing a registered
- 10121 trademark of a substituted article if the actor:
- 10122 (a) has or uses [any] a container or similar article [bearing or having] that bears or is in
- 10123 any way connected with [it]the registered trademark of another person; and
- 10124 (b) has or uses the container or article described in Subsection (2)(a) for the purpose of
- 10125 disposing, with intent to deceive or defraud, of [any] an article or substance other than
- 10126 that which the container or similar article originally contained or was connected with
- 10127 by the owner of [such] the trademark[is guilty of a class B misdemeanor].
- 10128 (3) A violation of Subsection (2) is a class B misdemeanor.
- 10129 Section 298. Section **76-16-305**, which is renumbered from Section 76-10-1005 is renumbered
- 10130 and amended to read:
- 10131 **[76-10-1005]76-16-305 . Using, destroying, concealing, or possessing an article**
- 10132 **with a registered trademark or service mark to deprive the owner of use or**
- 10133 **possession.**
- 10134 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.
- 10135 (2) [Every person who] An actor commits using, destroying, concealing, or possessing
- 10136 an article with a registered trademark or service mark to deprive the owner of use or
- 10137 possession if the actor, without the consent of the owner of an article bearing the owner's
- 10138 validly registered trademark or service mark[-] , and with the intent to deprive the owner
- 10139 of the use or possession of the article:
- 10140 (a) uses, destroys, conceals, or possesses the article[-] ; or [who]
- 10141 (b) defaces or otherwise conceals the trademark or service mark [upon] on the article[
- 10142 with intent to deprive the owner of the use or possession of the article] .
- 10143 (3) A violation of Subsection (2) is [guilty of]a class B misdemeanor.
- 10144 (4) [; provided, however, that nothing contained in this part shall be construed to apply to or
- 10145 restrict] This section does not apply to the transfer or use of a wooden [boxes] box or the
- 10146 re-use of a burlap or cotton [bags or sacks] bag or sack when [those bags or sacks have]
- 10147 the bag or sack has been reversed inside out or the markings [thereon] on the box, bag, or
- 10148 sack have been concealed or obliterated to effectively demonstrate that the [products]
- 10149 product contained [therein do] in the box, bag, or sack does not purport to be the [
- 10150 products] product of the owner of the registered trademark or service mark[-theretofore
- 10151 put upon those bags] that appeared on the box, bag, or sack.
- 10152 Section 299. Section **76-16-306**, which is renumbered from Section 76-10-1006 is renumbered

10153 and amended to read:

10154 ~~[76-10-1006]~~ **76-16-306 . Selling, trafficking, or withholding an article bearing a**
10155 **registered trademark or service mark with intent to defraud.**

10156 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

10157 (2) ~~[Every person who]~~ An actor commits selling, trafficking, or withholding an article
10158 bearing a registered trademark or service mark with intent to defraud if the actor,

10159 without the consent of the owner of an article ~~[bearing]~~ that bears the owner's validly
10160 registered trademark or service mark, and with the intent to defraud the owner of the

10161 article, knowingly:

10162 (a) sells or traffics ~~[in the articles]~~ the article; or

10163 (b) ~~[-who]~~ withholds the ~~[articles]~~ article from the article's owner ~~[-thereof with intent to~~
10164 ~~defraud the owner thereof is guilty of]~~ .

10165 (3) A violation of Subsection (2) is a class B misdemeanor.

10166 Section 300. Section **76-16-307**, which is renumbered from Section 76-10-1007 is renumbered
10167 and amended to read:

10168 ~~[76-10-1007]~~ **76-16-307 . Use of a registered trademark without consent.**

10169 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

10170 (2) ~~[Every person who]~~ An actor commits use of a registered trademark without
10171 consent if the actor adopts or in any way uses ~~[the]~~ a registered trademark ~~[of]~~ owned by
10172 another person without the person's consent ~~[-of the owner thereof, is guilty of]~~ .

10173 (3) A violation of Subsection (2) is a class B misdemeanor.

10174 Section 301. Section **76-16-401** is enacted to read:

10175

Part 4. Offenses Concerning Unfair Market Discrimination

10176 **76-16-401 . Definitions.**

10177 Reserved.

10178 Section 302. Section **76-16-402**, which is renumbered from Section 76-10-3002 is renumbered
10179 and amended to read:

10180 ~~[76-10-3002]~~ **76-16-402 . Unfair discrimination in competitive practices.**

10181 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

10182 (2) ~~[Every]~~ An actor commits unfair discrimination in competitive prices if the actor:

10183 (a) is a person engaged in the production, manufacture, or distribution of ~~[any]~~ a
10184 commodity in general use ~~[-who]~~ ; and

10185 (b) intentionally, for the purpose of destroying the competition of ~~[any]~~ a regular,

10186 established dealer in [~~such~~] the commodity, or to prevent the competition of [~~any~~] a
10187 person who in good faith intends and attempts to become a dealer, discriminates
10188 between different sections, communities, or cities of this state by selling the
10189 commodity at a lower rate in one section, community, or city, or any portion [~~thereof~~]
10190 of the section, community, or city, than the [~~person~~] actor charges for the commodity
10191 in another section, community, or city, after equalizing the distance from the point of
10192 production, manufacture, or distribution and freight rates [~~therefrom, is guilty of~~
10193 unfair discrimination].

10194 (3) A violation of this section is subject to:

10195 (a) a fine of not less than \$500 and no more than \$4,000 for each offense; and

10196 (b) sanctions described in Subsection (4).

10197 (4)(a) If a complaint is made to the attorney general that a corporation has violated this
10198 section, the attorney general shall investigate the complaint, and for that purpose,
10199 may subpoena witnesses, administer oaths, take testimony, and require the production
10200 of books or other documents.

10201 (b) If in the attorney general's opinion, sufficient grounds exist for a prosecution after an
10202 investigation under Subsection (4)(a), the attorney general may prosecute an action in
10203 the name of the state to annul the charter or revoke the license of the corporation, and
10204 to permanently enjoin the corporation from doing business in this state.

10205 (c) If, in an action described in Subsection (4)(b), the court finds that the corporation is
10206 guilty of unfair discrimination under this section, the court shall annul the charter or
10207 revoke the license of the corporation and may permanently enjoin the corporation
10208 from transacting business in this state.

10209 Section 303. Section **76-16-403**, which is renumbered from Section 76-10-3001 is renumbered
10210 and amended to read:

10211 **[76-10-3001] 76-16-403 . Fraudulent practice to affect market price.**

10212 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

10213 (2) [~~Every person who~~] An actor commits fraudulent practice to affect market price if
10214 the actor willfully makes or publishes [~~any~~] a false statement, spreads [~~any~~] a false rumor,
10215 or employs any other false or fraudulent means or device, with the intent to affect the
10216 market price of any kind of property [~~, is guilty of a class B misdemeanor~~].

10217 (3) A violation of Subsection (2) is:

10218 (a) a class B misdemeanor; and

10219 (b) subject to a fine of not less than \$500 and no more than \$4,000 for each offense.



10220 Section 304. Section **76-16-404**, which is renumbered from Section 76-10-3005 is renumbered
10221 and amended to read:

10222 ~~[76-10-3005]~~ **76-16-404 . Unfair discrimination by a buyer of milk, cream, or**
10223 **butterfat.**

10224 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

10225 (2) ~~[Any]~~ An actor commits unfair discrimination by a buyer of milk, cream, or
10226 butterfat if the actor:

10227 (a) is:

10228 (i) a person doing business in this state ~~[and]~~ that is engaged in the business of buying
10229 milk, cream, or butterfat for the purpose of sale or storage~~[-, who,-] ; or~~


10230 (ii) an officer or agent of a person described in Subsection (2)(a)(i); and

10231 (b) for the purpose of creating a monopoly or destroying the business of a competitor,
10232 discriminates between different sections, communities, localities, cities, or towns of
10233 this state by purchasing ~~[the commodity or commodities]~~ milk, cream, or butterfat at a
10234 higher price or rate in one section, community, location, city, or town than is paid for
10235 the same ~~[commodity]~~ milk, cream, or butterfat by the ~~[person]~~ actor in another
10236 section, community, locality, city, or town, after making due allowance for the
10237 difference, if any, in the grade or quality, and in the actual cost of transportation from
10238 the point of purchase to the point of manufacture, sale, or storage~~[-, is guilty of unfair~~
10239 discrimination, which is hereby prohibited and declared to be unlawful; and any
10240 person, firm, company, association, or corporation, or any officer, agent, receiver, or
10241 member of such firm, company, association, or corporation, found guilty of unfair
10242 discrimination as herein defined shall be guilty of a class B misdemeanor].

10243 (3) A violation of Subsection (2) is:

10244 (a) a class B misdemeanor; and

10245 (b) subject to a fine of not less than \$500 and no more than \$4,000 for each offense.

10246 Section 305. Section **76-16-501**, which is renumbered from Section  is renumbered
10247 and amended to read:

10248

Part 5. 

10249  **-76-16-501 . Definitions.**





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10266 Section 306. Section **76-16-502**, which is renumbered from Section [REDACTED] is renumbered
 10267 and amended to read:

10268 [REDACTED] **76-16-502** . [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

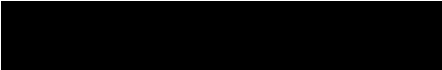
[REDACTED]

[REDACTED]

10283 Section 307. Section **76-16-503**, which is renumbered from Section [REDACTED] is renumbered
 10284 and amended to read:

10285 [REDACTED] **76-16-503** . [REDACTED]

[REDACTED]



[REDACTED]

10292 Section 308. Section **76-16-504**, which is renumbered from Section [REDACTED] is renumbered
10293 and amended to read:

[REDACTED] **76-16-504** [REDACTED]

[REDACTED]



[REDACTED]

10335 Section 309. Section **76-16-505**, which is renumbered from Section [REDACTED] is renumbered
10336 and amended to read:

10337 [REDACTED] **76-16-505** . [REDACTED]

[REDACTED]

10350 Section 310. Section **76-16-506**, which is renumbered from Section [REDACTED] is renumbered
10351 and amended to read:

10352 [REDACTED] **76-16-506** . [REDACTED]



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[Redacted text block 2]

[Redacted text block 3]



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[Redacted text block containing multiple lines of obscured content]



[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

10563 Section 313. Section **76-16-509**, which is renumbered from Section [REDACTED] is renumbered
 10564 and amended to read:

10565 [REDACTED] 76-16-509 . [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
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 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

10579 Section 314. Section **76-16-510**, which is renumbered from Section [REDACTED] is renumbered
 10580 and amended to read:

10581 [REDACTED] 76-16-510 . [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

10586 Section 315. Section **76-16-511**, which is renumbered from Section [REDACTED] is renumbered
 10587 and amended to read:

10588 [REDACTED] 76-16-511 . [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]



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10669 Section 316. Section **76-16-512**, which is renumbered from Section [Redacted] is renumbered
10670 and amended to read:

10671 [Redacted] **76-16-512** . [Redacted]

[Redacted text block]

10697 Section 317. Section **76-17-101** is enacted to read:

10698 **CHAPTER 17. OFFENSES CONCERNING KICKBACKS, PYRAMID**

SCHEMES, AND PATTERNS OF UNLAWFUL ACTIVITY

10700 **Part 1. General Provisions**

10701 **76-17-101 . Definitions.**

10702 Reserved.

10703 Section 318. Section **76-17-201** is enacted to read:

10704 **Part 2. Offenses Concerning Kickbacks**

10705 **76-17-201 . Definitions.**

10706 As used in this part:

10707 (1) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration,
10708 that is:

10709 (a) direct or indirect;

10710 (b) overt or covert; or

10711 (c) in cash or in kind.

10712 (2) "Kickback or bribe" does not include:

10713 (a) a fee that is:

10714 (i) shared between two or more individuals, each of whom is licensed to practice law;
10715 and

10716 (ii) charged for services provided in the individual's capacity as a licensee described
10717 in Subsection (2)(a)(i); or

10718 (b) payment for medical services rendered.

10719 Section 319. Section **76-17-202**, which is renumbered from Section 76-10-3201 is renumbered
10720 and amended to read:

10721 **~~[76-10-3201]~~ 76-17-202 . Unlawful conduct concerning a kickback or bribe.**

10722 [~~(1)~~ As used in this section:]

10723 [(a) ~~"Kickback or bribe" means a rebate, compensation, or any other form of remuneration,~~
10724 ~~that is:~~]

10725 [~~(i) direct or indirect;~~]

- 10726 [(ii) overt or covert; or]
- 10727 [(iii) in cash or in kind.]
- 10728 [(b) "Kickback or bribe" does not include:]
- 10729 [(i) a fee that is:]
- 10730 [(A) shared between two or more individuals, each of whom is licensed to practice law;
and]
- 10731 [(B) charged for services provided in the individual's capacity as a licensee described in
10732 Subsection (1)(b)(i)(A); or]
- 10733 [(ii) payment for medical services rendered.]
- 10734 [(2)] (1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-201 apply to this
10735 section.
- 10736 (2)[(a)] An actor commits unlawful conduct concerning a kickback or bribe if the actor:
- 10737 (a) [~~may not solicit or receive~~] solicits or receives a kickback or bribe in return for the
10738 referral of a person to another person for the furnishing of [any] a good or service that
10739 relates to [any] an insurance claim or a claim for damages[:]; or
- 10740 (b) [~~An actor may not offer or pay~~] offers or pays a kickback or bribe to induce the
10741 referral of a person to another person for the furnishing of [any] a good or service that
10742 relates to [any] an insurance claim or a claim for damages.
- 10743 (3) A violation of Subsection (2) is a third degree felony.
- 10744 (4)(a) This section does not apply to an individual licensed to practice law or a medical
10745 provider when referring a client for medical treatment or evaluation, if the referral is
10746 made without compensation.
- 10747 [(5)] (b) This section does not apply to an individual licensed to practice law when:
- 10748 [(a)] (i) paying a lien, contractual reimbursement, or medical bill on behalf of a client
10749 from proceeds of a settlement or judgment; or
- 10750 [(b)] (ii) marketing to, or engaging in client development activities with, an individual
10751 licensed to provide medical treatment or evaluation, if the marketing or client
10752 development activities are not for the purpose of inducing the individual licensed
10753 to provide medical treatment or evaluation to refer a particular person to the
10754 individual licensed to practice law.
- 10755 Section 320. Section **76-17-301**, which is renumbered from Section 76-6a-101 is renumbered
10756 and amended to read:

Part 3. Offenses Concerning Pyramid Schemes

10758 ~~[76-6a-101]~~ **76-17-301 . Definitions.**10759 As used in this ~~[chapter]~~ part:10760 ~~[(1)(a)]~~ ~~(1)~~~~[(i)]~~ (a) "Compensation" means money, money bonuses, overrides, prizes, or
10761 other real or personal property, tangible or intangible.10762 ~~[(ii)]~~ (b) "Compensation" does not include payment based on the sale of goods or
10763 services to anyone purchasing the goods or services for actual personal use or
10764 consumption.10765 ~~[(b)]~~ (2) "Consideration" does not include:10766 ~~[(i)]~~ (a) payment for sales demonstration equipment or materials furnished at cost for use
10767 in making sales and not for resale; or10768 ~~[(ii)]~~ (b) time or effort spent in selling or recruiting activities.10769 ~~[(e)]~~ (3) "Person" includes a business trust, estate, trust, joint venture, or any other legal or
10770 commercial entity.10771 ~~[(d)]~~ (4) "Pyramid scheme" means ~~[any]~~ a sales device or plan under which a person gives
10772 consideration to another person in exchange for compensation or the right to receive
10773 compensation that is derived primarily from the introduction of other persons into the
10774 sales device or plan rather than from the sale of goods, services, or other property.10775 ~~[(2) Terms defined in Section 76-1-101.5 apply to this part.]~~10776 Section 321. Section **76-17-302**, which is renumbered from Section 76-6a-104 is renumbered
10777 and amended to read:10778 ~~[76-6a-104]~~ **76-17-302 . Rights of person giving consideration in pyramid scheme.**10779 (1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.10780 (2)(a) ~~[Any]~~ A person giving consideration in connection with a pyramid scheme may,
10781 notwithstanding any agreement to the contrary, declare the person's giving of
10782 consideration and the related sale or contract for sale void, and may bring a court
10783 action to recover the consideration.10784 (b) In an action brought under Subsection ~~[(1)(a)]~~ (2)(a), the court shall, in addition to
10785 any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff
10786 interest as provided in Section 15-1-4, reasonable attorneys' fees, and the costs of the
10787 action reduced by any compensation paid by the defendant to the plaintiff in
10788 connection with the pyramid scheme.10789 ~~[(2)]~~ (3)(a) The rights, remedies, and penalties provided in this ~~[chapter]~~ part are
10790 independent of and supplemental to each other and to any other right, remedy or
10791 penalty available in law or equity.

10792 (b) Nothing contained in this [chapter] part shall be construed to diminish or abrogate
10793 any other right, remedy or penalty.

10794 Section 322. Section **76-17-303**, which is renumbered from Section 76-6a-102 is renumbered
10795 and amended to read:

10796 **[76-6a-102]76-17-303 . Conducting a pyramid scheme.**

10797 (1) Terms defined in [Section] Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this
10798 section.

10799 (2) An actor commits [~~the offense of~~]conducting a pyramid scheme if the actor knowingly
10800 organizes, establishes, promotes, or administers a pyramid scheme.

10801 (3) A violation of Subsection (2) is a third degree felony.

10802 (4) It is not a defense to an action brought under this section that:

10803 (a) the sales device or plan limits the number of persons who may be introduced into the
10804 sales device or plan;

10805 (b) the sales device or plan includes additional conditions affecting eligibility for
10806 introduction into the sales device or plan or when compensation may be received
10807 from the sales device or plan; or

10808 (c) a person receives property or services in addition to the compensation or right to
10809 receive compensation in connection with a pyramid scheme.

10810 (5) The appropriate county attorney or district attorney has primary responsibility for
10811 investigating and prosecuting a criminal violation of this section.

10812 (6)(a) A violation under this section constitutes a violation of Section 13-11-4.

10813 (b) A criminal conviction under this section is prima facie evidence of a violation of
10814 Section 13-11-4.

10815 (c) In addition to prosecution under this section, a violation of this section shall be
10816 civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah
10817 Consumer Sales Practices Act.

10818 Section 323. Section **76-17-304**, which is renumbered from Section 76-6a-103 is renumbered
10819 and amended to read:

10820 **[76-6a-103]76-17-304 . Participating in a pyramid scheme.**

10821 (1) Terms defined in [Section] Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this
10822 section.

10823 (2) An actor commits [~~the offense of~~] participating in a pyramid scheme if the actor
10824 participates in a pyramid scheme only by receiving compensation for the introduction of
10825 another person into the pyramid scheme rather than from the sale of goods, services, or

- 10826 other property.
- 10827 (3) A violation of Subsection (2) is a class B misdemeanor.
- 10828 (4) It is not a defense to an action brought under this section that:
- 10829 (a) the sales device or plan limits the number of persons who may be introduced into the
- 10830 sales device or plan;
- 10831 (b) the sales device or plan includes additional conditions affecting eligibility for
- 10832 introduction into the sales device or plan or when compensation may be received
- 10833 from the sales device or plan; or
- 10834 (c) a person receives property or services in addition to the compensation or right to
- 10835 receive compensation in connection with a pyramid scheme.
- 10836 (5) The appropriate county attorney or district attorney has primary responsibility for
- 10837 investigating and prosecuting a criminal violation of this section.
- 10838 (6)(a) A violation under this section constitutes a violation of Section 13-11-4.
- 10839 (b) A criminal conviction under this section is prima facie evidence of a violation of
- 10840 Section 13-11-4.
- 10841 (c) In addition to prosecution under this section, a violation of this section shall be
- 10842 civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah
- 10843 Consumer Sales Practices Act.
- 10844 Section 324. Section **76-17-401**, which is renumbered from Section 76-10-1602 is renumbered
- 10845 and amended to read:

10846 **Part 4. Offenses Concerning Patterns of Unlawful Activity**

10847 **~~[76-10-1602]~~76-17-401 . Definitions.**

10848 As used in this part:

- 10849 (1)(a) "Enterprise" means ~~[any]~~ an individual, sole proprietorship, partnership,
- 10850 corporation, business trust, association, or other legal entity, and ~~[any]~~ a union or
- 10851 group of individuals associated in fact although not a legal entity~~[, and]~~ .
- 10852 (b) "Enterprise" includes illicit as well as licit entities.
- 10853 (2) "Pattern of unlawful activity" means engaging in conduct ~~[which]~~ that constitutes the
- 10854 commission of at least three episodes of unlawful activity, which episodes are not
- 10855 isolated, but have the same or similar purposes, results, participants, victims, or methods
- 10856 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
- 10857 together, the episodes shall demonstrate continuing unlawful conduct and be related
- 10858 either to each other or to the enterprise. At least one of the episodes comprising a

10859 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
10860 constituting part of a pattern of unlawful activity as defined by this part shall have
10861 occurred within five years of the commission of the next preceding act alleged as part of
10862 the pattern.

10863 (3) "Person" includes [any] an individual or entity capable of holding a legal or beneficial
10864 interest in property, including state, county, and local governmental entities.

10865 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
10866 encourage, or intentionally aid another person to engage in conduct [~~which~~] that would
10867 constitute [any] an offense described by the following crimes or categories of crimes, or
10868 to attempt or conspire to engage in an act [~~which~~] that would constitute any of those
10869 offenses, regardless of whether the act is in fact charged or indicted by [any] an authority
10870 or is classified as a misdemeanor or a felony:

10871 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
10872 Recording Practices Act;

10873 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
10874 Code, Sections 19-1-101 through 19-7-109;

10875 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
10876 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
10877 Section 23A-5-311;

10878 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
10879 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

10880 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
10881 Offenses and Procedure Act;

10882 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
10883 Uniform Land Sales Practices Act;

10884 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
10885 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
10886 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
10887 Chapter 37d, Clandestine Drug Lab Act;

10888 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
10889 Securities Act;

10890 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
10891 Procurement Code;

10892 (j) assault under Section 76-5-102;

- 10893 (k) aggravated assault under Section 76-5-103;
- 10894 (l) a threat of terrorism under Section 76-5-107.3;
- 10895 (m) a criminal homicide offense under Section 76-5-201;
- 10896 (n) kidnapping under Section 76-5-301;
- 10897 (o) aggravated kidnapping under Section 76-5-302;
- 10898 (p) human trafficking for labor under Section 76-5-308;
- 10899 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 10900 (r) human smuggling under Section 76-5-308.3;
- 10901 (s) human trafficking of a child under Section 76-5-308.5;
- 10902 (t) benefiting from trafficking and human smuggling under Section 76-5-309;
- 10903 (u) aggravated human trafficking under Section 76-5-310;
- 10904 (v) sexual exploitation of a minor under Section 76-5b-201;
- 10905 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 10906 (x) arson under Section 76-6-102;
- 10907 (y) aggravated arson under Section 76-6-103;
- 10908 (z) causing a catastrophe under Section 76-6-105;
- 10909 (aa) burglary under Section 76-6-202;
- 10910 (bb) aggravated burglary under Section 76-6-203;
- 10911 (cc) burglary of a vehicle under Section 76-6-204;
- 10912 (dd) manufacture or possession of an instrument for burglary or theft under Section
- 10913 76-6-205;
- 10914 (ee) robbery under Section 76-6-301;
- 10915 (ff) aggravated robbery under Section 76-6-302;
- 10916 (gg) theft under Section 76-6-404;
- 10917 (hh) theft by deception under Section 76-6-405;
- 10918 (ii) theft by extortion under Section 76-6-406;
- 10919 (jj) receiving stolen property under Section 76-6-408;
- 10920 (kk) theft of services under Section 76-6-409;
- 10921 (ll) forgery under Section 76-6-501;
- 10922 (mm) unlawful use of financial transaction card under Section 76-6-506.2;
- 10923 (nn) unlawful acquisition, possession, or transfer of financial transaction card under
- 10924 Section 76-6-506.3;
- 10925 (oo) financial transaction card offenses under Section 76-6-506.6;
- 10926 (pp) deceptive business practices under Section 76-6-507;

- 10927 (qq) bribery or receiving bribe by person in the business of selection, appraisal, or
10928 criticism of goods under Section 76-6-508;
- 10929 (rr) bribery of a labor official under Section 76-6-509;
- 10930 (ss) defrauding creditors under Section 76-6-511;
- 10931 (tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 10932 (uu) unlawful dealing with property by fiduciary under Section 76-6-513;
- 10933 (vv) bribery or threat to influence contest under Section 76-6-514;
- 10934 (ww) making a false credit report under Section 76-6-517;
- 10935 (xx) criminal simulation under Section 76-6-518;
- 10936 (yy) criminal usury under Section 76-6-520;
- 10937 (zz) insurance fraud under Section 76-6-521;
- 10938 (aaa) retail theft under Section 76-6-602;
- 10939 (bbb) computer crimes under Section 76-6-703;
- 10940 (ccc) identity fraud under Section 76-6-1102;
- 10941 (ddd) mortgage fraud under Section 76-6-1203;
- 10942 (eee) sale of a child under Section 76-7-203;
- 10943 (fff) bribery to influence official or political actions under Section 76-8-103;
- 10944 (ggg) threat to influence official or political action under Section 76-8-104;
- 10945 (hhh) receiving bribe or bribery by public servant under Section 76-8-105;
- 10946 (iii) receiving bribe for endorsement of person as a public servant under Section
10947 76-8-106;
- 10948 (jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
- 10949 (kkk) official misconduct based on unauthorized act or failure of duty under Section
10950 76-8-201;
- 10951 (lll) official misconduct concerning inside information under Section 76-8-202;
- 10952 (mmm) obstruction of justice in a criminal investigation or proceeding under Section
10953 76-8-306;
- 10954 (nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section
10955 76-8-308;
- 10956 (ooo) harboring or concealing offender who has escaped from official custody under
10957 Section 76-8-309.2;
- 10958 (ppp) making a false or inconsistent material statement under Section 76-8-502;
- 10959 (qqq) making a false or inconsistent statement under Section 76-8-503;
- 10960 (rrr) making a written false statement under Section 76-8-504;

- 10961 (sss) tampering with a witness under Section 76-8-508;
- 10962 (ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 10963 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 10964 (vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 10965 (www) tampering with evidence under Section 76-8-510.5;
- 10966 (xxx) falsification or alteration of a government record under Section 76-8-511, if the
- 10967 record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
- 10968 Lobbyist Disclosure and Regulation Act;
- 10969 (yyy) public assistance fraud by an applicant for public assistance under Section
- 10970 76-8-1203.1;
- 10971 (zzz) public assistance fraud by a recipient of public assistance under Section
- 10972 76-8-1203.3;
- 10973 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;
- 10974 (bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
- 10975 (cccc) false statement to obtain or increase unemployment compensation under Section
- 10976 76-8-1301;
- 10977 (dddd) false statement to prevent or reduce unemployment compensation or liability
- 10978 under Section 76-8-1302;
- 10979 (eeee) unlawful failure to comply with Employment Security Act requirements under
- 10980 Section 76-8-1303;
- 10981 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;
- 10982 (gggg) intentionally or knowingly causing one animal to fight with another under
- 10983 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1[UPDATE CITES];
- 10984 (hhhh) possession, use, or removal of explosives, chemical, or incendiary devices or
- 10985 parts under Section 76-10-306[UPDATE CITES];
- 10986 (iiii) delivery to common carrier, mailing, or placement on premises of an incendiary
- 10987 device under Section 76-10-307 [UPDATE CITE];
- 10988 (jjjj) possession of a deadly weapon with intent to assault under Section 76-10-507
- 10989 UPDATE CITE;
- 10990 (kkkk) unlawful marking of pistol or revolver under Section 76-10-521 UPDATE CITE;
- 10991 (llll) alteration of number or mark on pistol or revolver under Section 76-10-522
- 10992 UPDATE CITE;
- 10993 (mmmm) forging or counterfeiting trademarks, trade name, or trade device under
- 10994 Section 76-10-1002 UPDATE CITE;

- 10995 (nnnn) selling goods under counterfeited trademark, trade name, or trade devices under
10996 Section 76-10-1003 UPDATE CITE;
- 10997 (oooo) sales in containers bearing registered trademark of substituted articles under
10998 Section 76-10-1004 UPDATE CITE;
- 10999 (pppp) selling or dealing with article bearing registered trademark or service mark with
11000 intent to defraud under Section 76-10-1006 UPDATE CITE;
- 11001 (qqqq) gambling under Section 76-10-1102 UPDATE CITE;
- 11002 (rrrr) gambling fraud under Section 76-10-1103 UPDATE CITE;
- 11003 (ssss) gambling promotion under Section 76-10-1104 UPDATE CITE;
- 11004 (tttt) possessing a gambling device or record under Section 76-10-1105 UPDATE CITE;
- 11005 (uuuu) confidence game under Section 76-10-1109 UPDATE CITE;
- 11006 (vvvv) distributing pornographic material under Section 76-10-1204 UPDATE CITE;
- 11007 (wwww) inducing acceptance of pornographic material under Section 76-10-1205
11008 UPDATE CITE;
- 11009 (xxxx) dealing in harmful material to a minor under Section 76-10-1206 UPDATE CITE;
- 11010 (yyyy) distribution of pornographic films under Section 76-10-1222 UPDATE CITE;
- 11011 (zzzz) indecent public displays under Section 76-10-1228 UPDATE CITE;
- 11012 (aaaaa) prostitution under Section 76-10-1302 UPDATE CITE;
- 11013 (bbbbbb) aiding prostitution under Section 76-10-1304 UPDATE CITE;
- 11014 (ccccc) exploiting prostitution under Section 76-10-1305 UPDATE CITE;
- 11015 (dddddd) aggravated exploitation of prostitution under Section 76-10-1306 UPDATE
11016 CITE;
- 11017 (eeee) communications fraud under Section 76-10-1801 UPDATE CITE;
- 11018 (fffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and
11019 Currency Transaction Reporting Act UPDATE CITE;
- 11020 (ggggg) vehicle compartment for contraband under Section 76-10-2801 UPDATE CITE;
- 11021 (hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in
11022 this state; or
- 11023 (iiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec.
11024 1961(1)(B), (C), and (D).
- 11025 Section 325. Section **76-17-402**, which is renumbered from Section 76-10-1604 is renumbered
11026 and amended to read:
- 11027 **[76-10-1604] 76-17-402 . Enforcement authority of peace officers.**
- 11028 Notwithstanding any law to the contrary, peace officers in [the state of Utah shall]

11029 this state have the authority to enforce the criminal provisions of this [aet] part by
11030 initiating investigations, assisting grand juries, obtaining indictments, filing
11031 informations, and assisting in the prosecution of criminal cases through the attorney
11032 general or county attorneys' offices.

11033 Section 326. Section **76-17-403**, which is renumbered from Section 76-10-1605 is renumbered
11034 and amended to read:

11035 ~~[76-10-1605]~~**76-17-403 . Remedies of person injured by a pattern of unlawful**
11036 **activity -- Double damages -- Costs, including attorney fees -- Arbitration --**
11037 **Agency -- Burden of proof -- Actions by attorney general or county attorney --**
11038 **Dismissal -- Statute of limitations -- Authorized orders of a court.**

11039 (1)(a) A person injured in [his] the person's person, business, or property by a person
11040 engaged in conduct forbidden by [~~any provision of Section 76-10-1603~~] Section
11041 76-17-407 may bring an action in a court with jurisdiction under Title 78A, Judiciary
11042 and Judicial Administration, to recover twice the damages that the person sustains,
11043 regardless of whether:

11044 [(a)] (i) the injury is separate or distinct from the injury suffered as a result of the acts
11045 or conduct constituting the pattern of unlawful conduct alleged as part of the cause
11046 of action; or

11047 [(b)] (ii) the conduct has been adjudged criminal by [~~any~~] a court of the state or of the
11048 United States.

11049 (2) A party who prevails on a cause of action brought under this section recovers the cost of
11050 the suit, including reasonable attorney fees.

11051 (3) All actions arising under this section [~~which~~] that are grounded in fraud are subject to
11052 arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

11053 (4)(a) In all actions under this section, a principal is liable for actual damages for harm
11054 caused by an agent acting within the scope of either [his] the agent's employment or
11055 apparent authority.

11056 (b) A principal is liable for double damages only if the pattern of unlawful activity
11057 alleged and proven as part of the cause of action was authorized, solicited, requested,
11058 commanded, undertaken, performed, or recklessly tolerated by the board of directors
11059 or a high managerial agent acting within the scope of [his] the agent's employment.

11060 (5) In all actions arising under this section, the burden of proof is clear and convincing
11061 evidence.

11062 (6) The attorney general, county attorney, or, if within a prosecution district, the district

- 11063 attorney may maintain [~~actions~~] an action under this section on behalf of the state, the
11064 county, or any person injured by a person engaged in conduct forbidden by [~~any~~
11065 ~~provision of Section 76-10-1603~~] Section 76-17-407, to prevent, restrain, or remedy
11066 injury as defined in this section and may recover the damages and costs allowed by this
11067 section.
- 11068 (7) In all actions under this section, the elements of each claim or cause of action shall be
11069 stated with particularity against each defendant.
- 11070 (8) If an action, claim, or counterclaim brought or asserted by a private party under this
11071 section is dismissed [~~prior to~~] before trial or disposed of on summary judgment, or if it is
11072 determined at trial that there is no liability, the prevailing party shall recover from the
11073 party who brought the action or asserted the claim or counterclaim the amount of [~~its~~] the
11074 prevailing party's reasonable expenses incurred because of the defense against the
11075 action, claim, or counterclaim, including a reasonable attorney's fee.
- 11076 (9)(a) An action or proceeding brought under this section shall be commenced within
11077 three years after the conduct prohibited by Section 76-10-1603 terminates or the
11078 cause of action accrues, whichever is later.
- 11079 (b) [~~This provision~~] Subsection (9)(a) supersedes any limitation to the contrary.
- 11080 (10)(a) In any action brought under this section, the court may prevent, restrain, or
11081 remedy injury as defined by this section by issuing appropriate orders after making
11082 provisions for the rights of innocent persons.
- 11083 (b) Before liability is determined in any action brought under this section, the court may:
11084 (i) issue restraining orders and injunctions;
11085 (ii) require satisfactory performance bonds or any other bond [~~it~~] the court considers
11086 appropriate and necessary in connection with any property or [~~any~~] requirement
11087 imposed upon a party by the court; and
11088 (iii) enter any other order the court considers necessary and proper.
- 11089 (c) After a determination of liability, the court may, in addition to granting the relief
11090 allowed in Subsection (1), do any one or all of the following:
11091 (i) order [~~any~~] a person to divest [~~himself~~] the person's self of any interest in or any
11092 control, direct or indirect, of [~~any~~] an enterprise;
11093 (ii) impose reasonable restrictions on the future activities or investments of [~~any~~] a
11094 person, including prohibiting [~~any~~] a person from engaging in the same type of
11095 endeavor as the enterprise engaged in, to the extent the Utah Constitution and the
11096 Constitution of the United States permit; or

11097 (iii) order the dissolution or reorganization of [any] an enterprise.

11098 (d)(i) However, if an action is brought to obtain any relief provided by this section,
11099 and if the conduct prohibited by [~~Section 76-10-1603~~] Section 76-17-407 has for
11100 its pattern of unlawful activity acts or conduct illegal under Section 76-10-1204,
11101 76-10-1205, 76-10-1206, or 76-10-1222, [UPDATE CITES] the court may not
11102 enter [any] an order that would amount to a prior restraint on the exercise of an
11103 affected party's rights under the First Amendment to the Constitution of the United
11104 States, or Article I, Sec. 15 of the Utah Constitution.

11105 (ii) The court shall, upon the request of [any] an affected party, and upon the notice to
11106 all parties, [~~prior to~~] before the issuance of [any] an order provided for in this
11107 subsection, and at any later time, hold hearings as necessary to determine whether
11108 any materials at issue are obscene or pornographic and to determine if there is
11109 probable cause to believe that any act or conduct alleged violates Section
11110 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222 [UPDATE CITES].

11111 (iii) In making [~~its~~] the court's findings, the court shall be guided by the same
11112 considerations required of a court making similar findings in criminal cases
11113 brought under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222
11114 [UPDATE CITES], including, but not limited to, the definitions in Sections
11115 76-10-1201, 76-10-1203, and 76-10-1216 [UPDATE CITES], and the exemptions
11116 in Section 76-10-1226 [UPDATE CITE].

11117 Section 327. Section **76-17-404**, which is renumbered from Section 76-10-1607 is renumbered
11118 and amended to read:

11119 **[76-10-1607] 76-17-404 . Evidentiary value of a criminal judgment in a civil**
11120 **proceeding.**

11121 A final judgment or decree rendered in favor of the state or a county in [any] a
11122 criminal proceeding brought by this state or a county shall preclude the defendant
11123 from denying the essential allegations of the criminal offense in [any] a subsequent
11124 civil proceeding.

11125 Section 328. Section **76-17-405**, which is renumbered from Section 76-10-1609 is renumbered
11126 and amended to read:

11127 **[76-10-1609] 76-17-405 . Prospective application.**

11128 (1) [~~The amendments to the Utah Pattern of Unlawful Activity Act~~] Except as
11129 provided in Subsection (2), amendments to this part are prospective in nature and apply
11130 only to civil causes of action accruing after [the effective date of this act] April 27, 1987.

11131 ~~(2) [However, crimes committed prior to the effective date of this act]~~ A crime committed
11132 before April 27, 1987, may comprise part of a pattern of unlawful activity if at least one
11133 of the criminal episodes comprising that pattern occurs after ~~[the effective date of this act]~~
11134 April 27, 1987, and the pattern otherwise meets the definition of pattern of unlawful
11135 activity as defined in Section ~~[76-10-1602]~~ 76-17-401.

11136 Section 329. Section **76-17-406**, which is renumbered from Section 76-10-1608 is renumbered
11137 and amended to read:

11138 **~~[76-10-1608]~~76-17-406 . Severability clause.**

11139 If any part or application of ~~[the Utah Pattern of Unlawful Activity Act]~~ this part is
11140 held invalid, the remainder of this part, or ~~[its]~~ the part's application to other situations or
11141 persons, is not affected.

11142 Section 330. Section **76-17-407**, which is renumbered from Section 76-10-1603 is renumbered
11143 and amended to read:

11144 **~~[76-10-1603]~~76-17-407 . Prohibited conduct concerning a pattern of unlawful**
11145 **activity.**

11146 (1)(a) As used in this section, "net proceeds" of a violation of this section means
11147 property acquired as a result of the violation minus the direct costs of acquiring the
11148 property.

11149 (b) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-401 apply to this
11150 section.

11151 (2) An actor commits prohibited conduct concerning a pattern of unlawful activity if the
11152 actor:

11153 (a) ~~[It is unlawful for any person who]~~

11154 (i) has received ~~[any]~~ proceeds derived, whether directly or indirectly, from a pattern
11155 of unlawful activity in which the ~~[person]~~ actor has participated as a principal~~[-, to~~
11156 ~~use or invest,-]~~ ; and

11157 (ii) uses or invests, directly or indirectly, any part of ~~[that]~~ the income described in
11158 Subsection (2)(a)(i), or the proceeds of the income, or the proceeds derived from
11159 the investment or use of those proceeds, in the acquisition of ~~[any]~~ an interest in, or
11160 the establishment or operation of, ~~[any]~~ an enterprise~~[-]~~ ;

11161 ~~[(2)]~~ (b) ~~[It is unlawful for any person through a pattern of unlawful activity to acquire or~~
11162 ~~maintain]~~ acquires or maintains, directly or indirectly, through a pattern of unlawful
11163 activity, ~~[any]~~ an interest in or control of ~~[any]~~ an enterprise~~[-]~~ ;

11164 ~~[(3)]~~ (c)(i) ~~[It is unlawful for any person]~~ is employed by or associated with ~~[any]~~ an

- 11165 enterprise; and
- 11166 (ii) [to conduct or participate] conducts or participates, whether directly or indirectly,
- 11167 in the conduct of [that] the enterprise's affairs through a pattern of unlawful activity[-] ;
- 11168 or
- 11169 [(4)] (d) [It is unlawful for any person to conspire to violate any provision of Subsection
- 11170 (1), (2), or (3)] conspires to violate Subsection (2)(a), (b), or (c).
- 11171 (3) A violation of Subsection (2) is a second degree felony.
- 11172 (4) In addition to penalties prescribed by law, the court may order an actor to pay to the
- 11173 state, if the attorney general brought the action, or to the county, if the county attorney
- 11174 or district attorney brought the action, the costs of investigating and prosecuting the
- 11175 offense and the costs of securing the forfeitures provided for in this section.
- 11176 (5) In lieu of a fine otherwise authorized by law for a violation of this section, an actor who
- 11177 derives net proceeds from a conduct prohibited by this section may be fined not more
- 11178 than twice the amount of the net proceeds.
- 11179 (6) Upon a conviction for a violation of this section, and in addition to a penalty prescribed
- 11180 by law, the court may do any or all of the following:
- 11181 (a) order restitution to any victim or rightful owner of property obtained, directly or
- 11182 indirectly, from:
- 11183 (i) the conduct constituting the pattern of unlawful activity; or
- 11184 (ii) any act or conduct constituting the pattern of unlawful activity that is proven as
- 11185 part of the violation of this section;
- 11186 (b) order the actor to divest the actor of any interest in or any control, direct or indirect,
- 11187 of an enterprise;
- 11188 (c) impose reasonable restrictions on the future activities or investments of any person,
- 11189 including prohibiting the person from engaging in the same type of endeavor as the
- 11190 enterprise engaged in, to the extent the Utah Constitution and the Constitution of the
- 11191 United States permit; or
- 11192 (d) order the dissolution or reorganization of an enterprise.
- 11193 (7) If a violation of this section is based on a pattern of unlawful activity consisting of acts
- 11194 or conduct in violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222,
- 11195 [UPDATE CITES] the court may not enter an order that would amount to a prior
- 11196 restraint on the exercise of an affected party's rights under the First Amendment to the
- 11197 Constitution of the United States or Utah Constitution Article I, Section 15.
- 11198 Section 331. Section **77-7-28**, which is renumbered from Section 76-9-903 is renumbered

11199 and amended to read:

11200 **[76-9-903]77-7-28 . Law enforcement officer responsibilities for gang loitering**

11201 (1) As used in this section:

11202 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

11203 (b) "Gang loitering" means the same as that term is defined in Section 76-9-802.

11204 (c) "Public place" means the same as that term is defined in Section 76-9-802.

11205 [(4)] (2) [When-] If a law enforcement officer observes [a person] an individual whom the
11206 law enforcement officer reasonably believes to be a member of a criminal street gang
11207 engaging in gang loitering in the presence of one or more other [persons] individuals in [
11208 any] a public place that is designated by a municipal or county legislative body as an area
11209 where gang loitering is prohibited under Section [76-9-905] 11-48-104 and subject to the
11210 penalties under Section 76-9-805, the [pøhee] law enforcement officer shall:

11211 (a) inform[all the persons that they are-] the individual and all other individuals
11212 engaging in gang loitering with the individual in a group that [within an] the area in
11213 which the group is loitering by a group containing one or more criminal street gang
11214 members is prohibited;

11215 (b) order [all the persons in the group] the individual to disperse and remove [themselves-]
11216 the individual from within sight and hearing of the location where the officer issues
11217 the order to disperse; and

11218 (c) inform the [persons] individuals that any [person] individual in the group will be
11219 subject to being charged with a criminal offense and will also be subject to arrest if
11220 the [person] individual fails to promptly obey the order to disperse.

11221 [(2)] (3) The law enforcement officer under Subsection (1) shall also advise the [persons]
11222 individuals the law enforcement officer is directing to disperse that each of the [persons]
11223 individuals directed to disperse is subject to being charged with a criminal offense and
11224 will also be subject to arrest if the [person] individual is again, within eight hours after
11225 the current order to disperse is made:

11226 (a) present in a public place with a group that includes one or more [persons] individuals
11227 a [pøee] law enforcement officer reasonably believes to be a member of a criminal
11228 street gang; and

11229 (b) within sight or hearing of the location where the law enforcement officer is currently
11230 issuing the order to disperse.

11231 (4) This section does not affect or limit an individual's constitutional right to engage in
11232 collective advocacy activities that are protected by the constitution or laws of this state

- 11233 or by the constitution or laws of the United States.
- 11234 (5) A sheriff or chief of police implementing this section shall:
- 11235 (a) issue a written directive to all agency employees that provides information on
- 11236 preventing the enforcement of this section against individuals who are engaged in
- 11237 constitutionally protected collective advocacy activities;
- 11238 (b) ensure that all law enforcement officers charged with enforcing this section
- 11239 successfully complete appropriate training on identification of gang members and
- 11240 criminal street gangs; and
- 11241 (c) ensure that any training described in this section complies with Title 63G, Chapter
- 11242 22, State Training and Certification Requirements.
- 11243 Section 332. **Repealer.**
- 11244 This bill repeals:
- 11245 Section **76-5b-101, Title.**
- 11246 Section **76-9-406, Injunctive relief against privacy offenses -- Damages.**
- 11247 Section **76-9-505, Libelous matter not privileged.**
- 11248 Section **76-9-801, Title.**
- 11249 Section **76-9-901, Title.**
- 11250 Section **76-9-902, Definitions.**
- 11251 Section **76-9-906, Protection of constitutional rights.**
- 11252 Section **76-9-907, Training for participating law enforcement officers.**
- 11253 Section **76-9-1001, Title.**
- 11254 Section **76-10-404, Exemptions.**
- 11255 Section **76-10-405, Reimbursement of government response expenses.**
- 11256 Section **76-10-500, Uniform law.**
- 11257 Section **76-10-512, Target concessions, shooting ranges, competitions, and hunting**
- 11258 **excepted from prohibitions.**
- 11259 Section **76-10-521, Unlawful marking of pistol or revolver.**
- 11260 Section **76-10-604, Violations -- Classification of offense.**
- 11261 Section **76-10-803, "Public nuisance" defined -- Agricultural operations -- Critical**
- 11262 **infrastructure materials operations.**
- 11263 Section **76-10-1008, Inspections by trade commission.**
- 11264 Section **76-10-1009, Violation as unfair trade practice and unfair competition --**
- 11265 **Investigation and enforcement proceedings by trade commission.**
- 11266 Section **76-10-1010, Action by law enforcement agencies on complaints.**

- 11267 Section **76-10-1101.5, General culpability requirement applicable.**
- 11268 Section **76-10-1106, Duty of prosecuting attorney or law enforcement officer to**
- 11269 **prosecute offenses.**
- 11270 Section **76-10-1108, Seizure and disposition of gambling debts or proceeds.**
- 11271 Section **76-10-1218, Qualification for exhibition and distribution of films required.**
- 11272 Section **76-10-1221, Service of process, notice, or demand on registered agent of film**
- 11273 **distributor.**
- 11274 Section **76-10-1224, Defense to prosecution for distribution or exhibition of**
- 11275 **pornographic film -- Status as projectionist or other employee no defense.**
- 11276 Section **76-10-1225, Prosecution of pornographic film violations by county attorney,**
- 11277 **district attorney, or city attorney.**
- 11278 Section **76-10-1226, Exemptions from application of film distribution act.**
- 11279 Section **76-10-1227, Indecent public displays -- Definitions.**
- 11280 Section **76-10-1229.5, Breast feeding is not violation of this part.**
- 11281 Section **76-10-1234, Rulemaking authority.**
- 11282 Section **76-10-1308, Prosecution.**
- 11283 Section **76-10-1310, Definitions.**
- 11284 Section **76-10-1501, Short title.**
- 11285 Section **76-10-1502, Legislative findings.**
- 11286 Section **76-10-1511, Cumulative and supplemental nature of act.**
- 11287 Section **76-10-1601, Short title.**
- 11288 Section **76-10-1603.5, Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions**
- 11289 **-- Dissolution or reorganization -- Prior restraint.**
- 11290 Section **76-10-1901, Short title.**
- 11291 Section **76-10-1904, Money laundering -- Penalty.**
- 11292 Section **76-10-1907, Separate offenses.**
- 11293 Section **76-10-2001, Definitions.**
- 11294 Section **76-10-2401, Definitions.**
- 11295 Section **76-10-2702, Penalty for littering on a park, recreation area, waterway, or other**
- 11296 **public or private land.**
- 11297 Section **76-10-3003, Corporation guilty of unfair discrimination -- Action by attorney**
- 11298 **general.**
- 11299 Section **76-10-3004, Penalty for violation.**
- 11300 Section **76-10-3101, Title.**



11301 Section **76-10-3113, Conviction as prima facie evidence in action for injunctive relief or**
11302 **damages.**

11303 Section **76-10-3118, Interpretation of act.**

11304 Section 333. **Effective date.**

11305 This bill takes effect on May 7, 2025.

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