

1

Criminal Code Recodification and Cross References

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor:

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LONG TITLE

4

General Description:

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

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Highlighted Provisions:

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This bill:

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reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 9, Offenses Against Public Order and Decency, and Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals;

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reorganizes Title 76, Chapters 9 and 10 into a new organization to better align with the contents of the statutes;

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reorganizes offenses to enact an embedded offense as a stand-alone statute or statutes, including offenses concerning:

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• emergency reporting, interference, and false reports;

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• prohibited use of a party line or public pay telephone;

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• commercial obstruction;

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• electronic communication harassment and disclosure of personal information;

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• cruelty to animals, dog fighting, and police service canines, including aligning

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exemptions and defenses based on the elements of each offense;

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• voyeurism;

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• abuse or desecration of a dead human body;

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- 25 • desecration of a dead human body;
- 26 • criminal street gang activities;
- 27 • tobacco sales and related offenses;
- 28 • gambling and related offenses;
- 29 • bus hijacking and related offenses;
- 30 • money laundering and related offenses;
- 31 • the use of a laser pointer;
- 32 • unlawful littering and related offenses;
- 33 • unlawful possession, use, or control of a vehicle with a contraband compartment;
- 34 • unlawful tattooing or piercing of a minor;
- 35 • labeling of explosives and related offenses;
- 36 • weapons offenses and related statutes;
- 37 • corporate fraud and related offenses, including unlawful acts by a director, officer, or
- 38 agent;
- 39 • nuisances;
- 40 • pornography and related offenses, including placing the definition of pornography in
- 41 the relevant definition section;
- 42 • prostitution, sexual solicitation, and related offenses; and
- 43 • kickbacks and related offenses;
- 44 ▶ for clarity, places contents of Title 76, Chapter 9, Part 5, Libel, into Title 45, Chapter 2,
- 45 Libel;
- 46 ▶ for clarity, places certain contents of Title 76, Chapter 10, Part 5, Weapons, into Title
- 47 53, Public Safety Code;
- 48 ▶ for clarity, places certain law enforcement requirements concerning gang loitering from
- 49 Title 76, Chapter 10, Part 9, Prohibition of Gang Activity, into Title 53, Chapter 25, Law
- 50 Enforcement Requirements;
- 51 ▶ for clarity, defines a minor as an individual younger than 21 years old for the offense
- 52 concerning public intoxication;
- 53 ▶ for clarity, provides a more detailed description of an actor for purposes of offenses
- 54 involving providing a weapon to a minor;
- 55 ▶ for clarity, technically revises language concerning vicious animal offense;

- 56 ▶ for clarity, removes definition of image in offense concerning failure to report child
- 57 sexual abuse material by a computer technician;
- 58 ▶ adds penalty provisions to offenses concerning high explosives that had been
- 59 inadvertently omitted;
- 60 ▶ repeals certain statutes concerning Utah Trade Commission, which entity no longer
- 61 exists;
- 62 ▶ for clarity, provides which prostitution-related offenses do not apply to a minor;
- 63 ▶ makes technical corrections to certain statutes resulting from inadvertent omissions in
- 64 the 2024 criminal code recodification, including:
 - 65 • reinserting a provision guaranteeing Native American rights in the statute concerning
 - 66 establishment of a prohibited item policy in a correctional or mental health facility;
 - 67 • reinserting the penalty to the offense of alteration of proposed legislative bill or
 - 68 resolution;
 - 69 • reinserting an element of the offense in the offense of assault or threat of violence
 - 70 against a child welfare worker; and
 - 71 • providing clarifying language regarding the identity of the actor in the offense
 - 72 concerning trafficking in warrants; and
 - 73 ▶ makes technical and conforming changes.

74 **Money Appropriated in this Bill:**

75 None

76 **Other Special Clauses:**

77 None

78 **Utah Code Sections Affected:**

79 AMENDS:

80 **4-2-903**, as enacted by Laws of Utah 2024, Chapter 82

81 **4-25-303**, as renumbered and amended by Laws of Utah 2017, Chapter 345

82 **4-41a-102**, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240

83 **4-44-202**, as enacted by Laws of Utah 2019, Chapter 81

84 **9-7-215**, as last amended by Laws of Utah 2023, Chapters 160, 231 and last amended by

85 Coordination Clause, Laws of Utah 2023, Chapter 160

86 **9-8a-304**, as renumbered and amended by Laws of Utah 2023, Chapter 160

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- 87 **9-8a-309**, as renumbered and amended by Laws of Utah 2023, Chapter 160
- 88 **9-9-403**, as last amended by Laws of Utah 2023, Chapter 160
- 89 **9-23-306**, as renumbered and amended by Laws of Utah 2022, Chapter 362
- 90 **10-8-41.5**, as last amended by Laws of Utah 2019, Chapter 303
- 91 **10-8-41.6**, as last amended by Laws of Utah 2024, Chapter 470
- 92 **10-8-47**, as last amended by Laws of Utah 2020, Chapters 302, 347
- 93 **10-18-103**, as last amended by Laws of Utah 2013, Chapter 187
- 94 **11-46-303**, as enacted by Laws of Utah 2011, Chapter 130
- 95 **13-39-202**, as last amended by Laws of Utah 2019, Chapter 356
- 96 **13-40-102**, as repealed and reenacted by Laws of Utah 2010, Chapter 200
- 97 **13-44-301**, as last amended by Laws of Utah 2024, Chapter 158
- 98 **13-45-401**, as last amended by Laws of Utah 2024, Chapter 158
- 99 **13-74-101**, as enacted by Laws of Utah 2024, Chapter 203
- 100 **16-6a-1414**, as last amended by Laws of Utah 2024, Chapter 331
- 101 **17-41-403**, as last amended by Laws of Utah 2019, Chapters 81, 227
- 102 **17-50-333**, as last amended by Laws of Utah 2024, Chapter 470
- 103 **19-2-114**, as last amended by Laws of Utah 2024, Chapter 92
- 104 **19-6-429**, as enacted by Laws of Utah 1997, Chapter 172
- 105 **23A-4-1106**, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and
- 106 amended by Laws of Utah 2023, Chapter 103
- 107 **23A-13-303**, as renumbered and amended by Laws of Utah 2023, Chapter 103
- 108 **26B-2-120**, as last amended by Laws of Utah 2024, Chapter 234
- 109 **26B-4-501**, as last amended by Laws of Utah 2024, Chapter 257
- 110 **26B-7-205**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 111 **26B-7-501**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 112 **26B-7-505**, as last amended by Laws of Utah 2024, Chapter 470
- 113 **26B-7-508**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 114 **26B-7-511**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 115 **26B-7-514**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 116 **26B-7-516**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 117 **26B-7-517**, as renumbered and amended by Laws of Utah 2023, Chapter 308

- 118 **26B-7-521**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 119 **26B-8-208**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 120 **31A-21-501**, as last amended by Laws of Utah 2022, Chapters 185, 430
- 121 **32B-3-303**, as last amended by Laws of Utah 2020, Chapter 291
- 122 **32B-4-423**, as enacted by Laws of Utah 2013, Chapter 169
- 123 **32B-5-301**, as last amended by Laws of Utah 2020, Chapters 219, 291
- 124 **32B-7-202**, as last amended by Laws of Utah 2024, Chapter 94
- 125 **32B-9-204**, as last amended by Laws of Utah 2020, Chapter 291
- 126 **34-45-102**, as enacted by Laws of Utah 2009, Chapter 379
- 127 **34-45-107**, as last amended by Laws of Utah 2016, Chapter 348
- 128 **34-52-201**, as last amended by Laws of Utah 2023, Chapters 115, 344 and last amended
- 129 by Coordination Clause, Laws of Utah 2023, Chapter 344
- 130 **34A-5-114**, as enacted by Laws of Utah 2024, Chapter 95
- 131 **41-1a-1008**, as last amended by Laws of Utah 2020, Chapter 354
- 132 **41-3-413**, as enacted by Laws of Utah 1993, Chapter 163
- 133 **47-3-305**, as last amended by Laws of Utah 2021, Chapter 246
- 134 **51-9-203**, as last amended by Laws of Utah 2023, Chapter 328
- 135 **51-9-801**, as last amended by Laws of Utah 2023, Chapter 319
- 136 **53-2a-214**, as renumbered and amended by Laws of Utah 2013, Chapter 295
- 137 **53-3-219**, as last amended by Laws of Utah 2022, Chapter 259
- 138 **53-3-220**, as last amended by Laws of Utah 2024, Chapter 319
- 139 **53-3-229**, as last amended by Laws of Utah 2020, Chapters 302, 347
- 140 **53-3-810**, as last amended by Laws of Utah 2020, Chapters 302, 347
- 141 **53-5-702**, as last amended by Laws of Utah 2024, Chapter 22
- 142 **53-5-704**, as last amended by Laws of Utah 2024, Chapter 195
- 143 **53-5-705**, as last amended by Laws of Utah 2010, Chapter 62
- 144 **53-5-710**, as last amended by Laws of Utah 2021, Chapter 141
- 145 **53-5-711**, as last amended by Laws of Utah 2019, Chapter 39
- 146 **53-5a-102**, as last amended by Laws of Utah 2022, Chapter 428
- 147 **53-5a-202**, as last amended by Laws of Utah 2024, Chapter 438
- 148 **53-5c-201**, as last amended by Laws of Utah 2023, Chapters 138, 448

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- 149 **53-5c-301**, as last amended by Laws of Utah 2024, Chapter 204
- 150 **53-5c-302**, as last amended by Laws of Utah 2024, Chapter 204
- 151 **53-5d-102**, as enacted by Laws of Utah 2016, Chapter 155
- 152 **53-10-202**, as last amended by Laws of Utah 2023, Chapter 328
- 153 **53-10-208.1**, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
- 154 **53-10-403**, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
- 155 **53-10-801**, as last amended by Laws of Utah 2022, Chapter 255 and renumbered and
- 156 amended by Laws of Utah 2022, Chapter 430
- 157 **53-10-803**, as renumbered and amended by Laws of Utah 2022, Chapter 430
- 158 **53-13-116**, as enacted by Laws of Utah 2021, Chapter 164
- 159 **53-22-105**, as enacted by Laws of Utah 2024, Chapter 21
- 160 **53-22-107**, as enacted by Laws of Utah 2024, Chapter 117
- 161 **53-25-103**, as enacted by Laws of Utah 2024, Chapter 332
- 162 **53-25-202**, as renumbered and amended by Laws of Utah 2024, Chapter 111
- 163 **53-25-501**, as enacted by Laws of Utah 2024, Chapter 111
- 164 **53B-16-601**, as enacted by Laws of Utah 2024, Chapter 49
- 165 **53G-1-103**, as last amended by Laws of Utah 2020, Chapter 161 and last amended by
- 166 Coordination Clause, Laws of Utah 2020, Chapter 161
- 167 **53G-4-402**, as last amended by Laws of Utah 2024, Chapters 67, 476
- 168 **53G-6-204**, as last amended by Laws of Utah 2024, Chapters 113, 386
- 169 **53G-8-201**, as last amended by Laws of Utah 2024, Chapter 75
- 170 **53G-8-205**, as last amended by Laws of Utah 2024, Chapter 75
- 171 **53G-8-209**, as last amended by Laws of Utah 2020, Chapters 161, 302 and 347
- 172 **53G-8-211**, as last amended by Laws of Utah 2024, Chapters 240, 301
- 173 **53G-8-701.8**, as enacted by Laws of Utah 2024, Chapter 21
- 174 **53G-10-103**, as last amended by Laws of Utah 2024, Chapter 318
- 175 **57-22-5.1**, as last amended by Laws of Utah 2023, Chapter 166
- 176 **58-37-8**, as last amended by Laws of Utah 2024, Chapter 105
- 177 **58-63-307**, as last amended by Laws of Utah 2008, Chapter 246
- 178 **59-1-501**, as last amended by Laws of Utah 2024, Chapter 275
- 179 **59-14-102**, as last amended by Laws of Utah 2022, Chapter 199

- 180 **59-14-507**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 181 **59-14-807**, as last amended by Laws of Utah 2024, Chapter 470
- 182 **59-14-810**, as enacted by Laws of Utah 2024, Chapter 470
- 183 **59-27-105**, as last amended by Laws of Utah 2013, Chapter 400
- 184 **63G-6a-2505**, as enacted by Laws of Utah 2024, Chapter 291
- 185 **63G-7-301**, as last amended by Laws of Utah 2024, Chapter 234
- 186 **63G-12-102**, as last amended by Laws of Utah 2023, Chapter 16
- 187 **63G-12-106**, as enacted by Laws of Utah 2011, Chapter 18
- 188 **63G-31-302**, as enacted by Laws of Utah 2024, Chapter 2
- 189 **63G-31-304**, as enacted by Laws of Utah 2024, Chapter 2
- 190 **63I-1-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
- 191 **63I-2-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
- 192 **63M-7-502**, as last amended by Laws of Utah 2024, Chapter 506
- 193 **64-13-41**, as last amended by Laws of Utah 2008, Chapter 382
- 194 **67-5-22.7**, as last amended by Laws of Utah 2011, Chapter 18
- 195 **72-10-901**, as renumbered and amended by Laws of Utah 2023, Chapter 216
- 196 **73-2-27**, as last amended by Laws of Utah 2023, Chapters 111, 179
- 197 **73-29-102**, as last amended by Laws of Utah 2023, Chapter 34
- 198 **76-1-301**, as last amended by Laws of Utah 2024, Chapter 96
- 199 **76-2-304.5**, as last amended by Laws of Utah 2024, Chapter 140
- 200 **76-2-306**, as last amended by Laws of Utah 2017, Chapter 322
- 201 **76-3-203.1**, as last amended by Laws of Utah 2024, Chapter 96
- 202 **76-3-203.3**, as last amended by Laws of Utah 2024, Chapters 96, 381
- 203 **76-3-203.5**, as last amended by Laws of Utah 2024, Chapters 96, 179
- 204 **76-3-203.12**, as enacted by Laws of Utah 2017, Chapter 449
- 205 **76-3-209**, as last amended by Laws of Utah 2023, Chapters 123, 214
- 206 **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234
- 207 **76-3-407**, as last amended by Laws of Utah 2023, Chapter 457
- 208 **76-4-102**, as last amended by Laws of Utah 2013, Chapter 93
- 209 **76-4-202**, as last amended by Laws of Utah 1996, Chapter 40
- 210 **76-4-203**, as last amended by Laws of Utah 2024, Chapter 301

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- 211 **76-5-102.8**, as last amended by Laws of Utah 2022, Chapter 181
- 212 **76-5-104**, as last amended by Laws of Utah 2022, Chapter 181
- 213 **76-5-106.5**, as last amended by Laws of Utah 2024, Chapter 179
- 214 **76-5-107**, as last amended by Laws of Utah 2024, Chapter 126
- 215 **76-5-107.1**, as last amended by Laws of Utah 2024, Chapter 27
- 216 **76-5-107.3**, as last amended by Laws of Utah 2022, Chapter 181
- 217 **76-5-109.3**, as last amended by Laws of Utah 2024, Chapter 225
- 218 **76-5-202**, as last amended by Laws of Utah 2022, Chapter 181
- 219 **76-5-203**, as last amended by Laws of Utah 2024, Chapters 96, 187
- 220 **76-5-302**, as last amended by Laws of Utah 2022, Chapter 181
- 221 **76-5-415**, as last amended by Laws of Utah 2018, Chapter 415
- 222 **76-5b-201**, as last amended by Laws of Utah 2024, Chapter 142
- 223 **76-5b-203**, as last amended by Laws of Utah 2024, Chapter 127
- 224 **76-5b-205**, as last amended by Laws of Utah 2024, Chapters 127, 146
- 225 **76-6-105**, as last amended by Laws of Utah 2023, Chapter 111
- 226 **76-6-206**, as last amended by Laws of Utah 2024, Chapter 2
- 227 **76-6-414**, as enacted by Laws of Utah 2024, Chapter 230
- 228 **76-6-703.3**, as enacted by Laws of Utah 2023, Chapter 111
- 229 **76-6-703.7**, as enacted by Laws of Utah 2023, Chapter 111
- 230 **76-6-705**, as last amended by Laws of Utah 2023, Chapter 111
- 231 **76-6-1202**, as enacted by Laws of Utah 2008, Chapter 370
- 232 **76-7-101**, as last amended by Laws of Utah 2022, Chapter 181
- 233 **76-8-107**, as last amended by Laws of Utah 2024, Chapter 96
- 234 **76-8-311.1**, as last amended by Laws of Utah 2024, Chapter 96
- 235 **76-8-311.2**, as enacted by Laws of Utah 2024, Chapter 96
- 236 **76-8-311.3**, as last amended by Laws of Utah 2024, Chapters 96, 99
- 237 **76-8-311.4**, as enacted by Laws of Utah 2024, Chapter 96
- 238 **76-8-311.7**, as enacted by Laws of Utah 2024, Chapter 96
- 239 **76-8-318**, as last amended by Laws of Utah 2024, Chapter 96
- 240 **76-8-411**, as last amended by Laws of Utah 2024, Chapter 96
- 241 **76-9-101**, as last amended by Laws of Utah 2022, Chapter 181

- 242 **76-9-102**, as last amended by Laws of Utah 2020, Chapter 394
- 243 **76-9-103**, as enacted by Laws of Utah 1973, Chapter 196
- 244 **76-9-104**, as enacted by Laws of Utah 1973, Chapter 196
- 245 **76-9-105**, as last amended by Laws of Utah 2017, Chapter 462
- 246 **76-9-106**, as enacted by Laws of Utah 1992, Chapter 163
- 247 **76-9-107**, as enacted by Laws of Utah 2003, Chapter 186
- 248 **76-9-108**, as enacted by Laws of Utah 2007, Chapter 46
- 249 **76-9-109**, as enacted by Laws of Utah 2021, Chapter 174
- 250 **76-9-601**, as enacted by Laws of Utah 1973, Chapter 196
- 251 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96
- 252 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15
- 253 **76-9-804**, as last amended by Laws of Utah 2022, Chapter 181
- 254 **77-2-9**, as last amended by Laws of Utah 2021, Chapter 262
- 255 **77-7a-104**, as last amended by Laws of Utah 2020, Chapter 404
- 256 **77-11a-402**, as last amended by Laws of Utah 2024, Chapter 332
- 257 **77-11b-102**, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered
258 and amended by Laws of Utah 2023, Chapter 448
- 259 **77-11d-101**, as last amended by Laws of Utah 2024, Chapter 332
- 260 **77-11d-105**, as last amended by Laws of Utah 2024, Chapters 332, 517
- 261 **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16
- 262 **77-20-204**, as last amended by Laws of Utah 2024, Chapter 16
- 263 **77-22-2.5**, as last amended by Laws of Utah 2022, Chapter 185
- 264 **77-23a-8**, as last amended by Laws of Utah 2024, Chapters 96, 301
- 265 **77-36-1**, as last amended by Laws of Utah 2024, Chapter 366
- 266 **77-36-2.1**, as last amended by Laws of Utah 2024, Chapter 434
- 267 **77-37-2**, as last amended by Laws of Utah 2024, Chapter 164
- 268 **77-38-3**, as last amended by Laws of Utah 2024, Chapter 240
- 269 **77-38-601**, as last amended by Laws of Utah 2023, Chapters 16, 237
- 270 **77-39-101**, as last amended by Laws of Utah 2024, Chapter 35
- 271 **77-40a-101**, as last amended by Laws of Utah 2024, Chapter 180
- 272 **77-40a-205**, as enacted by Laws of Utah 2024, Chapter 180

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- 273 **77-40a-403**, as last amended by Laws of Utah 2024, Chapter 180
- 274 **77-41-102**, as last amended by Laws of Utah 2024, Chapter 234
- 275 **77-41-106**, as last amended by Laws of Utah 2024, Chapter 234
- 276 **77-41-112**, as last amended by Laws of Utah 2024, Chapters 116, 234
- 277 **77-41-113**, as last amended by Laws of Utah 2024, Chapter 234
- 278 **77-42-105**, as last amended by Laws of Utah 2023, Chapter 111
- 279 **78A-2-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 280 **78A-5a-103**, as last amended by Laws of Utah 2024, Chapters 158, 366
- 281 **78B-4-511**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 282 **78B-5-505**, as last amended by Laws of Utah 2021, Chapter 260
- 283 **78B-6-111**, as last amended by Laws of Utah 2015, Chapter 194
- 284 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207
- 285 **78B-6-1103**, as last amended by Laws of Utah 2011, Chapter 185
- 286 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207
- 287 **78B-6-1701**, as enacted by Laws of Utah 2010, Chapter 143
- 288 **78B-6-2102**, as last amended by Laws of Utah 2024, Chapter 168
- 289 **78B-6-2105**, as last amended by Laws of Utah 2024, Chapter 168
- 290 **78B-6-2301**, as last amended by Laws of Utah 2024, Chapter 438
- 291 **78B-7-502**, as last amended by Laws of Utah 2022, Chapter 430
- 292 **78B-7-801**, as last amended by Laws of Utah 2023, Chapter 114
- 293 **78B-8-503**, as last amended by Laws of Utah 2013, Chapter 187
- 294 **78B-9-104**, as last amended by Laws of Utah 2023, Chapters 111, 448
- 295 **80-1-102**, as last amended by Laws of Utah 2024, Chapter 256
- 296 **80-2-301**, as last amended by Laws of Utah 2024, Chapters 240, 307
- 297 **80-4-302**, as last amended by Laws of Utah 2023, Chapter 330
- 298 **80-6-103**, as last amended by Laws of Utah 2024, Chapter 532
- 299 **80-6-104**, as last amended by Laws of Utah 2024, Chapter 20
- 300 **80-6-302**, as last amended by Laws of Utah 2023, Chapter 161
- 301 **80-6-303.5**, as last amended by Laws of Utah 2024, Chapter 301
- 302 **80-6-304**, as last amended by Laws of Utah 2023, Chapter 161
- 303 **80-6-305**, as last amended by Laws of Utah 2023, Chapter 161

- 304 **80-6-503**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 305 **80-6-605**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 306 **80-6-608**, as last amended by Laws of Utah 2024, Chapter 256
- 307 **80-6-707**, as last amended by Laws of Utah 2022, Chapters 116, 334
- 308 **80-6-712**, as last amended by Laws of Utah 2024, Chapter 153
- 309 **80-6-804**, as last amended by Laws of Utah 2024, Chapter 153
- 310 **80-6-1002**, as last amended by Laws of Utah 2023, Chapter 115
- 311 **80-6-1004.1**, as enacted by Laws of Utah 2023, Chapter 115
- 312 **80-6-1004.5**, as last amended by Laws of Utah 2024, Chapter 301
- 313 **81-9-202**, as renumbered and amended by Laws of Utah 2024, Chapter 366
- 314 **81-9-204**, as renumbered and amended by Laws of Utah 2024, Chapter 366
- 315 **81-9-208**, as renumbered and amended by Laws of Utah 2024, Chapter 366

316 ENACTS:

- 317 **53-5a-102.1**, Utah Code Annotated 1953
- 318 **53-5a-301**, Utah Code Annotated 1953
- 319 **53-25-601**, Utah Code Annotated 1953
- 320 **59-14-501.5**, Utah Code Annotated 1953
- 321 **76-5-801**, Utah Code Annotated 1953
- 322 **76-5-803**, Utah Code Annotated 1953
- 323 **76-5c-201**, Utah Code Annotated 1953
- 324 **76-5c-203**, Utah Code Annotated 1953
- 325 **76-5c-206**, Utah Code Annotated 1953
- 326 **76-5c-212**, Utah Code Annotated 1953
- 327 **76-5c-213**, Utah Code Annotated 1953
- 328 **76-5c-307**, Utah Code Annotated 1953
- 329 **76-5d-201**, Utah Code Annotated 1953
- 330 **76-5d-204**, Utah Code Annotated 1953
- 331 **76-5d-205**, Utah Code Annotated 1953
- 332 **76-5d-210**, Utah Code Annotated 1953
- 333 **76-9-105.6**, Utah Code Annotated 1953
- 334 **76-9-114**, Utah Code Annotated 1953

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- 335 **76-9-803.5**, Utah Code Annotated 1953
- 336 **76-9-803.6**, Utah Code Annotated 1953
- 337 **76-9-1108**, Utah Code Annotated 1953
- 338 **76-9-1115**, Utah Code Annotated 1953
- 339 **76-9-1118**, Utah Code Annotated 1953
- 340 **76-9-1201**, Utah Code Annotated 1953
- 341 **76-9-1302**, Utah Code Annotated 1953
- 342 **76-9-1403**, Utah Code Annotated 1953
- 343 **76-9-1404**, Utah Code Annotated 1953
- 344 **76-9-1503**, Utah Code Annotated 1953
- 345 **76-9-1507**, Utah Code Annotated 1953
- 346 **76-9-1603**, Utah Code Annotated 1953
- 347 **76-9-1701**, Utah Code Annotated 1953
- 348 **76-9-1703**, Utah Code Annotated 1953
- 349 **76-9-1704**, Utah Code Annotated 1953
- 350 **76-9-1801**, Utah Code Annotated 1953
- 351 **76-9-1803**, Utah Code Annotated 1953
- 352 **76-9-1804**, Utah Code Annotated 1953
- 353 **76-9-1805**, Utah Code Annotated 1953
- 354 **76-9-1806**, Utah Code Annotated 1953
- 355 **76-9-1901**, Utah Code Annotated 1953
- 356 **76-9-1903**, Utah Code Annotated 1953
- 357 **76-9-2001**, Utah Code Annotated 1953
- 358 **76-9-2003**, Utah Code Annotated 1953
- 359 **76-11-201**, Utah Code Annotated 1953
- 360 **76-11-301**, Utah Code Annotated 1953
- 361 **76-12-101**, Utah Code Annotated 1953
- 362 **76-12-201**, Utah Code Annotated 1953
- 363 **76-12-203**, Utah Code Annotated 1953
- 364 **76-12-204**, Utah Code Annotated 1953
- 365 **76-12-306**, Utah Code Annotated 1953

- 366 **76-12-308**, Utah Code Annotated 1953
- 367 **76-13-101**, Utah Code Annotated 1953
- 368 **76-13-201**, Utah Code Annotated 1953
- 369 **76-13-203**, Utah Code Annotated 1953
- 370 **76-13-204**, Utah Code Annotated 1953
- 371 **76-13-206**, Utah Code Annotated 1953
- 372 **76-13-210**, Utah Code Annotated 1953
- 373 **76-14-101**, Utah Code Annotated 1953
- 374 **76-15-101**, Utah Code Annotated 1953
- 375 **76-15-201**, Utah Code Annotated 1953
- 376 **76-15-207**, Utah Code Annotated 1953
- 377 **76-15-208**, Utah Code Annotated 1953
- 378 **76-15-211**, Utah Code Annotated 1953
- 379 **76-16-101**, Utah Code Annotated 1953
- 380 **76-16-210**, Utah Code Annotated 1953
- 381 **76-16-211**, Utah Code Annotated 1953
- 382 **76-16-212**, Utah Code Annotated 1953
- 383 **76-16-213**, Utah Code Annotated 1953
- 384 **76-16-214**, Utah Code Annotated 1953
- 385 **76-16-401**, Utah Code Annotated 1953
- 386 **76-17-101**, Utah Code Annotated 1953
- 387 **76-17-201**, Utah Code Annotated 1953

388 **RENUMBERS AND AMENDS:**

- 389 **11-48-104**, (Renumbered from 76-9-905, as enacted by Laws of Utah 2009, Chapter 86)
- 390 **45-2-11**, (Renumbered from 76-9-504, as enacted by Laws of Utah 1973, Chapter
- 391 196)
- 392 **45-2-12**, (Renumbered from 76-9-506, as enacted by Laws of Utah 1973, Chapter
- 393 196)
- 394 **45-2-13**, (Renumbered from 76-9-509, as enacted by Laws of Utah 1973, Chapter
- 395 196)
- 396 **53-5a-102.3**, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009,

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398 **53-5a-105**, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993,
399 Chapter 234)
400 **53-5a-106**, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993,
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402 **53-5a-107**, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008,
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404 **53-5a-108**, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021,
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406 **53-5a-302**, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023,
407 Chapters 330, 397)
408 **53-5a-303**, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023,
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410 **53-5a-304**, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009,
411 Chapter 20)
412 **53-5a-305**, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004,
413 Chapter 360)
414 **53-25-602**, (Renumbered from 76-9-903, as enacted by Laws of Utah 2009, Chapter 86)
415 **58-37-8.1**, (Renumbered from 76-10-2204, as last amended by Laws of Utah 2023,
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417 **58-37-8.2**, (Renumbered from 76-10-2203, as enacted by Laws of Utah 2019,
418 Chapter 97)
419 **67-5-40**, (Renumbered from 76-10-3114, as last amended by Laws of Utah 2019,
420 Chapter 348)
421 **76-5-115**, (Renumbered from 76-10-2202, as enacted by Laws of Utah 2011,
422 Chapter 204)
423 **76-5-417**, (Renumbered from 76-4-401, as last amended by Laws of Utah 2023,
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425 **76-5-418**, (Renumbered from 76-9-702.1, as last amended by Laws of Utah 2024,
426 Chapter 234)
427 **76-5-419**, (Renumbered from 76-9-702, as last amended by Laws of Utah 2024,

428 Chapter 234)
429 **76-5-420**, (Renumbered from 76-9-702.5)
430 **76-5-802**, (Renumbered from 76-9-704, as last amended by Laws of Utah 2023,
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432 **76-5b-206**, (Renumbered from 76-10-1204.5, as last amended by Laws of Utah
433 2023, Chapter 231)
434 **76-5c-101**, (Renumbered from 76-10-1201, as last amended by Laws of Utah 2013,
435 Chapter 278)
436 **76-5c-102**, (Renumbered from 76-10-1203, as last amended by Laws of Utah 1977,
437 Chapter 92)
438 **76-5c-103**, (Renumbered from 76-10-1210, as last amended by Laws of Utah 2007,
439 Chapter 123)
440 **76-5c-104**, (Renumbered from 76-10-1209, as last amended by Laws of Utah 2010,
441 Chapter 43)
442 **76-5c-105**, (Renumbered from 76-10-1207, as enacted by Laws of Utah 1977,
443 Chapter 92)
444 **76-5c-106**, (Renumbered from 76-10-1213, as last amended by Laws of Utah 2000,
445 Chapter 53)
446 **76-5c-107**, (Renumbered from 76-10-1212, as last amended by Laws of Utah 2000,
447 Chapter 53)
448 **76-5c-108**, (Renumbered from 76-10-1215, as last amended by Laws of Utah 1993,
449 Chapter 38)
450 **76-5c-109**, (Renumbered from 76-10-1208, as last amended by Laws of Utah 2007,
451 Chapter 123)
452 **76-5c-110**, (Renumbered from 76-10-1207.5, as enacted by Laws of Utah 1990,
453 Chapter 138)
454 **76-5c-111**, (Renumbered from 76-10-1211, as last amended by Laws of Utah 1995,
455 Chapter 20)
456 **76-5c-202**, (Renumbered from 76-10-1204, as last amended by Laws of Utah 2021,
457 Chapter 260)
458 **76-5c-204**, (Renumbered from 76-10-1205, as last amended by Laws of Utah 2021,

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460 **76-5c-205**, (Renumbered from 76-10-1206, as last amended by Laws of Utah 2021,
461 Chapter 260)
462 **76-5c-207**, (Renumbered from 76-10-1228, as last amended by Laws of Utah 2021,
463 Chapter 260)
464 **76-5c-208**, (Renumbered from 76-10-1235, as enacted by Laws of Utah 2007,
465 Chapter 79)
466 **76-5c-209**, (Renumbered from 76-10-1236, as enacted by Laws of Utah 2023,
467 Chapter 118)
468 **76-5c-210**, (Renumbered from 76-10-1237, as enacted by Laws of Utah 2023,
469 Chapter 118)
470 **76-5c-211**, (Renumbered from 76-10-1238, as enacted by Laws of Utah 2024,
471 Chapter 166)
472 **76-5c-214**, (Renumbered from 76-10-1214, as last amended by Laws of Utah 2021,
473 Chapter 260)
474 **76-5c-301**, (Renumbered from 76-10-1216, as enacted by Laws of Utah 1977,
475 Chapter 92)
476 **76-5c-302**, (Renumbered from 76-10-1217, as enacted by Laws of Utah 1977,
477 Chapter 93)
478 **76-5c-303**, (Renumbered from 76-10-1219, as last amended by Laws of Utah 2010,
479 Chapters 43, 324)
480 **76-5c-304**, (Renumbered from 76-10-1220, as last amended by Laws of Utah 2010,
481 Chapter 43)
482 **76-5c-305**, (Renumbered from 76-10-1222, as enacted by Laws of Utah 1977,
483 Chapter 93)
484 **76-5c-306**, (Renumbered from 76-10-1223, as enacted by Laws of Utah 1977,
485 Chapter 93)
486 **76-5c-401**, (Renumbered from 76-10-1230, as last amended by Laws of Utah 2018,
487 Chapter 164)
488 **76-5c-402**, (Renumbered from 76-10-1231, as last amended by Laws of Utah 2019,
489 Chapter 180)

- 490 **76-5c-403**, (Renumbered from 76-10-1233, as last amended by Laws of Utah 2008,
491 Chapter 297)
- 492 **76-5d-101**, (Renumbered from 76-10-1301, as last amended by Laws of Utah 2022,
493 Chapter 124)
- 494 **76-5d-102**, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991,
495 Chapter 107)
- 496 **76-5d-103**, (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023,
497 Chapters 184, 330)
- 498 **76-5d-104**, (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023,
499 Chapter 330)
- 500 **76-5d-105**, (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993,
501 Chapter 179)
- 502 **76-5d-106**, (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022,
503 Chapters 124, 181 and 335)
- 504 **76-5d-202**, (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023,
505 Chapter 111)
- 506 **76-5d-203**, (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024,
507 Chapter 140)
- 508 **76-5d-206**, (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018,
509 Chapter 308)
- 510 **76-5d-207**, (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018,
511 Chapter 308)
- 512 **76-5d-208**, (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022,
513 Chapter 181)
- 514 **76-5d-209**, (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022,
515 Chapters 124, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 124)
- 516 **76-5d-211**, (Renumbered from 76-10-1309, as last amended by Laws of Utah 2011,
517 Chapter 70)
- 518 **76-6-207**, (Renumbered from 76-10-2002, as enacted by Laws of Utah 1989,
519 Chapter 179)
- 520 **76-6-525**, (Renumbered from 76-10-1801, as last amended by Laws of Utah 2010,

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521 Chapter 193)
522 **76-9-105.5**, (Renumbered from 76-9-202, as last amended by Laws of Utah 2024,
523 Chapter 27)
524 **76-9-110**, (Renumbered from 76-9-701, as last amended by Laws of Utah 2021,
525 Chapter 262)
526 **76-9-111**, (Renumbered from 76-9-702.3, as last amended by Laws of Utah 2016,
527 Chapter 303)
528 **76-9-112**, (Renumbered from 76-9-705, as enacted by Laws of Utah 1997, Chapter 83)
529 **76-9-113**, (Renumbered from 76-10-2402, as last amended by Laws of Utah 2010,
530 Chapter 334)
531 **76-9-602**, (Renumbered from 76-9-706, as last amended by Laws of Utah 2016,
532 Chapter 303)
533 **76-9-805**, (Renumbered from 76-9-904, as enacted by Laws of Utah 2009, Chapter 86)
534 **76-9-1101**, (Renumbered from 76-10-101, as last amended by Laws of Utah 2024,
535 Chapter 470)
536 **76-9-1102**, (Renumbered from 76-10-102, as last amended by Laws of Utah 1986,
537 Chapter 66)
538 **76-9-1103**, (Renumbered from 76-10-103, as last amended by Laws of Utah 2020,
539 Chapters 302, 347)
540 **76-9-1104**, (Renumbered from 76-10-104, as last amended by Laws of Utah 2020,
541 Chapters 302, 347)
542 **76-9-1105**, (Renumbered from 76-10-104.1, as last amended by Laws of Utah 2020,
543 Chapters 302, 347)
544 **76-9-1106**, (Renumbered from 76-10-105, as last amended by Laws of Utah 2021,
545 Chapter 262)
546 **76-9-1107**, (Renumbered from 76-10-105.1, as last amended by Laws of Utah 2021,
547 Chapter 348)
548 **76-9-1109**, (Renumbered from 76-10-105.3, as enacted by Laws of Utah 1986,
549 Chapter 188)
550 **76-9-1110**, (Renumbered from 76-10-107, as last amended by Laws of Utah 2002,
551 Chapter 23)

- 552 **76-9-1111**, (Renumbered from 76-10-107.5, as enacted by Laws of Utah 2002,
553 Chapter 23)
- 554 **76-9-1112**, (Renumbered from 76-10-111, as last amended by Laws of Utah 2020,
555 Chapters 302, 347)
- 556 **76-9-1113**, (Renumbered from 76-10-112, as last amended by Laws of Utah 2020,
557 Chapter 302)
- 558 **76-9-1114**, (Renumbered from 76-10-113, as last amended by Laws of Utah 2024,
559 Chapter 470)
- 560 **76-9-1116**, (Renumbered from 76-10-114, as last amended by Laws of Utah 2021,
561 First Special Session, Chapter 12)
- 562 **76-9-1117**, (Renumbered from 76-10-115, as last amended by Laws of Utah 2021,
563 First Special Session, Chapter 12)
- 564 **76-9-1119**, (Renumbered from 76-10-116, as enacted by Laws of Utah 2020, Chapter
565 302)
- 566 **76-9-1202**, (Renumbered from 76-10-201, as last amended by Laws of Utah 2005,
567 Chapter 215)
- 568 **76-9-1203**, (Renumbered from 76-10-202, as last amended by Laws of Utah 2005,
569 Chapter 215)
- 570 **76-9-1204**, (Renumbered from 76-10-203, as last amended by Laws of Utah 2005,
571 Chapter 215)
- 572 **76-9-1205**, (Renumbered from 76-10-204, as last amended by Laws of Utah 2023,
573 Chapters 111, 179)
- 574 **76-9-1206**, (Renumbered from 76-10-2601, as enacted by Laws of Utah 2002,
575 Chapter 166)
- 576 **76-9-1301**, (Renumbered from 76-10-801, as enacted by Laws of Utah 1973, Chapter
577 196)
- 578 **76-9-1303**, (Renumbered from 76-10-802, as enacted by Laws of Utah 1973, Chapter
579 196)
- 580 **76-9-1304**, (Renumbered from 76-10-805, as enacted by Laws of Utah 1973, Chapter
581 196)
- 582 **76-9-1305**, (Renumbered from 76-10-804, as enacted by Laws of Utah 1973, Chapter

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583 196)
584 **76-9-1306**, (Renumbered from 76-10-806, as last amended by Laws of Utah 1993,
585 Chapter 227)
586 **76-9-1307**, (Renumbered from 76-10-808, as last amended by Laws of Utah 2015,
587 Chapter 258)
588 **76-9-1308**, (Renumbered from 76-10-807, as enacted by Laws of Utah 2010, Chapter
589 99)
590 **76-9-1401**, (Renumbered from 76-10-1101, as last amended by Laws of Utah 2020,
591 Chapter 291)
592 **76-9-1402**, (Renumbered from 76-10-1102, as last amended by Laws of Utah 2020,
593 Chapter 291)
594 **76-9-1405**, (Renumbered from 76-10-1104, as last amended by Laws of Utah 2020,
595 Chapter 291)
596 **76-9-1406**, (Renumbered from 76-10-1103, as last amended by Laws of Utah 2019,
597 Chapter 185)
598 **76-9-1407**, (Renumbered from 76-10-1105, as last amended by Laws of Utah 2020,
599 Chapter 291)
600 **76-9-1408**, (Renumbered from 76-10-1110, as enacted by Laws of Utah 2020,
601 Chapter 291)
602 **76-9-1409**, (Renumbered from 76-10-1104.5, as enacted by Laws of Utah 2001,
603 Chapter 182)
604 **76-9-1410**, (Renumbered from 76-10-1109, as enacted by Laws of Utah 1973,
605 Chapter 196)
606 **76-9-1411**, (Renumbered from 76-10-1112, as last amended by Laws of Utah 2023,
607 Chapter 448)
608 **76-9-1412**, (Renumbered from 76-10-1113, as enacted by Laws of Utah 2020,
609 Chapter 291)
610 **76-9-1501**, (Renumbered from 76-10-1503, as last amended by Laws of Utah 2007,
611 Chapter 329)
612 **76-9-1502**, (Renumbered from 76-10-1504, as last amended by Laws of Utah 2022,
613 Chapter 181)

- 614 **76-9-1504**, (Renumbered from 76-10-1505, as last amended by Laws of Utah 1999,
615 Chapter 97)
- 616 **76-9-1505**, (Renumbered from 76-10-1506, as last amended by Laws of Utah 2010,
617 Chapter 276)
- 618 **76-9-1506**, (Renumbered from 76-10-1507, as last amended by Laws of Utah 2016,
619 Chapter 399)
- 620 **76-9-1508**, (Renumbered from 76-10-1508, as enacted by Laws of Utah 1979,
621 Chapter 72)
- 622 **76-9-1509**, (Renumbered from 76-10-1509, as enacted by Laws of Utah 1979,
623 Chapter 72)
- 624 **76-9-1510**, (Renumbered from 76-10-1510, as last amended by Laws of Utah 2007,
625 Chapter 229)
- 626 **76-9-1601**, (Renumbered from 76-10-1902, as last amended by Laws of Utah 2013,
627 Chapter 73)
- 628 **76-9-1602**, (Renumbered from 76-10-1903, as last amended by Laws of Utah 2009,
629 Chapter 74)
- 630 **76-9-1604**, (Renumbered from 76-10-1906, as last amended by Laws of Utah 2008,
631 Chapter 268)
- 632 **76-9-1702**, (Renumbered from 76-10-2501, as last amended by Laws of Utah 2024,
633 Chapter 461)
- 634 **76-9-1802**, (Renumbered from 76-10-2701, as enacted by Laws of Utah 2008,
635 Chapter 22)
- 636 **76-9-1807**, (Renumbered from 76-10-2101, as last amended by Laws of Utah 2010,
637 Chapter 324)
- 638 **76-9-1902**, (Renumbered from 76-10-2801, as enacted by Laws of Utah 2008,
639 Chapter 298)
- 640 **76-9-2002**, (Renumbered from 76-10-2201, as last amended by Laws of Utah 2013,
641 Chapter 329)
- 642 **76-11-101**, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023,
643 Chapters 161, 397 and 425)
- 644 **76-11-102**, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990,

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645 Chapter 328)
646 **76-11-202**, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023,
647 Chapter 34)
648 **76-11-203**, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021,
649 Chapter 12)
650 **76-11-204**, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024,
651 Chapters 21, 117 and 301)
652 **76-11-205**, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019,
653 Chapters 39, 201)
654 **76-11-206**, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015,
655 Chapter 406)
656 **76-11-207**, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023,
657 Chapter 34)
658 **76-11-208**, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023,
659 Chapter 34)
660 **76-11-209**, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024,
661 Chapter 301)
662 **76-11-210**, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013,
663 Chapter 301)
664 **76-11-211**, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000,
665 Chapter 303)
666 **76-11-212**, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024,
667 Chapter 301)
668 **76-11-213**, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993,
669 Second Special Session, Chapter 13)
670 **76-11-214**, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023,
671 Chapters 330, 386)
672 **76-11-215**, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024,
673 Chapter 332)
674 **76-11-216**, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009,
675 Chapter 388)

- 676 **76-11-302**, (Renumbered from 76-10-503, as last amended by Laws of Utah 2023,
677 First Special Session, Chapter 2)
- 678 **76-11-309**, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023,
679 Chapter 203)
- 680 **76-11-310**, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023,
681 Chapter 425)
- 682 **76-12-202**, (Renumbered from 76-9-201, as last amended by Laws of Utah 2024,
683 Chapter 224)
- 684 **76-12-205**, (Renumbered from 76-6-703.1, as enacted by Laws of Utah 2023, Chapter
685 111)
- 686 **76-12-206**, (Renumbered from 76-9-203, as enacted by Laws of Utah 2021, Chapter
687 152)
- 688 **76-12-207**, (Renumbered from 76-10-1802, as enacted by Laws of Utah 2015,
689 Chapter 151)
- 690 **76-12-301**, (Renumbered from 76-9-401, as enacted by Laws of Utah 1973, Chapter
691 196)
- 692 **76-12-302**, (Renumbered from 76-9-402, as last amended by Laws of Utah 2023,
693 Chapter 510)
- 694 **76-12-303**, (Renumbered from 76-9-403, as enacted by Laws of Utah 1973, Chapter
695 196)
- 696 **76-12-304**, (Renumbered from 76-9-407, as enacted by Laws of Utah 1999, Chapter
697 146)
- 698 **76-12-305**, (Renumbered from 76-9-408, as enacted by Laws of Utah 2019, Chapter
699 372)
- 700 **76-12-307**, (Renumbered from 76-9-702.7)
- 701 **76-12-309**, (Renumbered from 76-9-702.8)
- 702 **76-12-401**, (Renumbered from 76-10-601, as enacted by Laws of Utah 1973, Chapter
703 196)
- 704 **76-12-402**, (Renumbered from 76-10-602, as enacted by Laws of Utah 1973, Chapter
705 196)
- 706 **76-12-403**, (Renumbered from 76-10-603, as last amended by Laws of Utah 1995,

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707 Chapter 20)
708 **76-13-102**, (Renumbered from 76-9-305, as last amended by Laws of Utah 1977,
709 Chapter 87)
710 **76-13-103**, (Renumbered from 76-9-301.6, as last amended by Laws of Utah 2008,
711 Chapter 292)
712 **76-13-104**, (Renumbered from 76-9-301.7, as last amended by Laws of Utah 2008,
713 Chapter 292)
714 **76-13-202**, (Renumbered from 76-9-301, as last amended by Laws of Utah 2023,
715 Chapter 34)
716 **76-13-205**, (Renumbered from 76-9-301.1, as last amended by Laws of Utah 2010,
717 Chapter 324)
718 **76-13-207**, (Renumbered from 76-9-301.3, as enacted by Laws of Utah 2015, Chapter
719 329)
720 **76-13-208**, (Renumbered from 76-9-301.5, as last amended by Laws of Utah 2008,
721 Chapter 292)
722 **76-13-209**, (Renumbered from 76-9-306, as last amended by Laws of Utah 2018,
723 Chapter 264)
724 **76-13-211**, (Renumbered from 76-9-307, as last amended by Laws of Utah 2023,
725 Chapter 330)
726 **76-13-212**, (Renumbered from 76-9-304, as last amended by Laws of Utah 1977,
727 Chapter 87)
728 **76-13-213**, (Renumbered from 76-9-301.8, as last amended by Laws of Utah 1999,
729 Chapter 302)
730 **76-13-214**, (Renumbered from 76-9-308, as last amended by Laws of Utah 2023,
731 Chapter 216)
732 **76-13-215**, (Renumbered from 76-9-301.9, as enacted by Laws of Utah 2024, Chapter
733 82)
734 **76-14-201**, (Renumbered from 76-9-1002, as enacted by Laws of Utah 2011, Chapter
735 21)
736 **76-14-202**, (Renumbered from 76-9-1003, as last amended by Laws of Utah 2022,
737 Chapter 181)

738 **76-14-203**, (Renumbered from 76-9-1004, as enacted by Laws of Utah 2011, Chapter
739 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)
740 **76-14-204**, (Renumbered from 76-9-1005, as enacted by Laws of Utah 2011, Chapter
741 21)
742 **76-14-205**, (Renumbered from 76-9-1006, as enacted by Laws of Utah 2011, Chapter
743 21)
744 **76-14-206**, (Renumbered from 76-9-1007, as last amended by Laws of Utah 2018,
745 Third Special Session, Chapter 2)
746 **76-14-207**, (Renumbered from 76-9-1008, as last amended by Laws of Utah 2024,
747 Chapter 96)
748 **76-14-208**, (Renumbered from 76-9-1009, as enacted by Laws of Utah 2011, Chapter
749 21)
750 **76-14-209**, (Renumbered from 76-10-2901, as last amended by Laws of Utah 2011,
751 Chapters 18, 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)
752 **76-15-202**, (Renumbered from 76-10-308, as repealed and reenacted by Laws of Utah
753 1993, Chapter 75)
754 **76-15-203**, (Renumbered from 76-10-302, as enacted by Laws of Utah 1973, Chapter
755 196)
756 **76-15-204**, (Renumbered from 76-10-303, as enacted by Laws of Utah 1973, Chapter
757 196)
758 **76-15-205**, (Renumbered from 76-10-304, as enacted by Laws of Utah 1973, Chapter
759 196)
760 **76-15-206**, (Renumbered from 76-10-305, as enacted by Laws of Utah 1973, Chapter
761 196)
762 **76-15-209**, (Renumbered from 76-10-307, as last amended by Laws of Utah 1999,
763 Chapter 97)
764 **76-15-210**, (Renumbered from 76-10-306, as last amended by Laws of Utah 2024,
765 Chapter 343)
766 **76-15-301**, (Renumbered from 76-10-401, as repealed and reenacted by Laws of Utah
767 2002, Chapter 166)
768 **76-15-302**, (Renumbered from 76-10-402, as enacted by Laws of Utah 2002, Chapter

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769 166)
770 **76-15-303**, (Renumbered from 76-10-403, as enacted by Laws of Utah 2002, Chapter
771 166)
772 **76-16-201**, (Renumbered from 76-10-701, as enacted by Laws of Utah 1973, Chapter
773 196)
774 **76-16-202**, (Renumbered from 76-10-709, as last amended by Laws of Utah 1995,
775 Chapter 20)
776 **76-16-203**, (Renumbered from 76-10-710, as enacted by Laws of Utah 1973, Chapter
777 196)
778 **76-16-204**, (Renumbered from 76-10-711, as last amended by Laws of Utah 1995,
779 Chapter 20)
780 **76-16-205**, (Renumbered from 76-10-702, as enacted by Laws of Utah 1973, Chapter
781 196)
782 **76-16-206**, (Renumbered from 76-10-703, as enacted by Laws of Utah 1973, Chapter
783 196)
784 **76-16-207**, (Renumbered from 76-10-704, as enacted by Laws of Utah 1973, Chapter
785 196)
786 **76-16-208**, (Renumbered from 76-10-705, as last amended by Laws of Utah 1992,
787 Third Special Session, Chapter 6)
788 **76-16-209**, (Renumbered from 76-10-706, as enacted by Laws of Utah 1973, Chapter
789 196)
790 **76-16-215**, (Renumbered from 76-10-707, as enacted by Laws of Utah 1973, Chapter
791 196)
792 **76-16-216**, (Renumbered from 76-10-708, as enacted by Laws of Utah 1973, Chapter
793 196)
794 **76-16-301**, (Renumbered from 76-10-1001, as last amended by Laws of Utah 1984,
795 Chapter 66)
796 **76-16-302**, (Renumbered from 76-10-1002, as last amended by Laws of Utah 1984,
797 Chapter 66)
798 **76-16-303**, (Renumbered from 76-10-1003, as last amended by Laws of Utah 1984,
799 Chapter 66)

- 800 **76-16-304**, (Renumbered from 76-10-1004, as enacted by Laws of Utah 1973,
801 Chapter 196)
- 802 **76-16-305**, (Renumbered from 76-10-1005, as last amended by Laws of Utah 1995,
803 Chapter 20)
- 804 **76-16-306**, (Renumbered from 76-10-1006, as enacted by Laws of Utah 1973,
805 Chapter 196)
- 806 **76-16-307**, (Renumbered from 76-10-1007, as enacted by Laws of Utah 1973,
807 Chapter 196)
- 808 **76-16-402**, (Renumbered from 76-10-3002, as renumbered and amended by Laws of
809 Utah 2013, Chapter 187)
- 810 **76-16-403**, (Renumbered from 76-10-3001, as renumbered and amended by Laws of
811 Utah 2013, Chapter 187)
- 812 **76-16-404**, (Renumbered from 76-10-3005, as renumbered and amended by Laws of
813 Utah 2013, Chapter 187)
- 814 **76-16-501**, (Renumbered from 76-10-3103, as last amended by Laws of Utah 2015,
815 Chapter 140)
- 816 **76-16-502**, (Renumbered from 76-10-3102, as renumbered and amended by Laws of
817 Utah 2013, Chapter 187)
- 818 **76-16-503**, (Renumbered from 76-10-3117, as renumbered and amended by Laws of
819 Utah 2013, Chapter 187)
- 820 **76-16-504**, (Renumbered from 76-10-3105, as last amended by Laws of Utah 2024,
821 Chapter 147)
- 822 **76-16-505**, (Renumbered from 76-10-3106, as renumbered and amended by Laws of
823 Utah 2013, Chapter 187)
- 824 **76-16-506**, (Renumbered from 76-10-3107, as last amended by Laws of Utah 2015,
825 Chapter 140)
- 826 **76-16-507**, (Renumbered from 76-10-3116, as renumbered and amended by Laws of
827 Utah 2013, Chapter 187)
- 828 **76-16-508**, (Renumbered from 76-10-3115, as renumbered and amended by Laws of
829 Utah 2013, Chapter 187)
- 830 **76-16-509**, (Renumbered from 76-10-3108, as last amended by Laws of Utah 2019,

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831 Chapter 348)
832 **76-16-510**, (Renumbered from 76-10-3104, as renumbered and amended by Laws of
833 Utah 2013, Chapter 187)
834 **76-16-511**, (Renumbered from 76-10-3109, as last amended by Laws of Utah 2019,
835 Chapter 348)
836 **76-16-512**, (Renumbered from 76-10-3112, as last amended by Laws of Utah 2013,
837 Chapter 285 and renumbered and amended by Laws of Utah 2013, Chapter 187)
838 **76-17-202**, (Renumbered from 76-10-3201, as last amended by Laws of Utah 2023,
839 Chapters 515, 536)
840 **76-17-301**, (Renumbered from 76-6a-101, as renumbered and amended by Laws of
841 Utah 2023, Chapter 111)
842 **76-17-302**, (Renumbered from 76-6a-104, as renumbered and amended by Laws of
843 Utah 2023, Chapter 111)
844 **76-17-303**, (Renumbered from 76-6a-102, as enacted by Laws of Utah 2023, Chapter
845 111)
846 **76-17-304**, (Renumbered from 76-6a-103, as enacted by Laws of Utah 2023, Chapter
847 111)
848 **76-17-401**, (Renumbered from 76-10-1602, as last amended by Laws of Utah 2024,
849 Chapter 96)
850 **76-17-402**, (Renumbered from 76-10-1604, as enacted by Laws of Utah 1981,
851 Chapter 94)
852 **76-17-403**, (Renumbered from 76-10-1605, as last amended by Laws of Utah 2024,
853 Chapter 158)
854 **76-17-404**, (Renumbered from 76-10-1607, as enacted by Laws of Utah 1981,
855 Chapter 94)
856 **76-17-405**, (Renumbered from 76-10-1609, as enacted by Laws of Utah 1987,
857 Chapter 238)
858 **76-17-406**, (Renumbered from 76-10-1608, as last amended by Laws of Utah 1987,
859 Chapter 238)
860 **76-17-407**, (Renumbered from 76-10-1603, as repealed and reenacted by Laws of
861 Utah 1987, Chapter 238)

862 REPEALS:

- 863 **76-5b-101**, as enacted by Laws of Utah 2011, Chapter 320
- 864 **76-9-406**, as enacted by Laws of Utah 1973, Chapter 196
- 865 **76-9-505**, as enacted by Laws of Utah 1973, Chapter 196
- 866 **76-9-801**, as enacted by Laws of Utah 2008, Chapter 15
- 867 **76-9-901**, as enacted by Laws of Utah 2009, Chapter 86
- 868 **76-9-902**, as last amended by Laws of Utah 2024, Chapter 96
- 869 **76-9-906**, as enacted by Laws of Utah 2009, Chapter 86
- 870 **76-9-907**, as last amended by Laws of Utah 2018, Chapter 200
- 871 **76-9-1001**, as enacted by Laws of Utah 2011, Chapter 21
- 872 **76-10-404**, as enacted by Laws of Utah 2002, Chapter 166
- 873 **76-10-405**, as enacted by Laws of Utah 2002, Chapter 166
- 874 **76-10-500**, as last amended by Laws of Utah 2022, Chapter 428
- 875 **76-10-512**, as last amended by Laws of Utah 2024, Chapter 301
- 876 **76-10-521**, as last amended by Laws of Utah 1993, Chapter 234
- 877 **76-10-604**, as last amended by Laws of Utah 1995, Chapter 20
- 878 **76-10-803**, as last amended by Laws of Utah 2019, Chapters 81, 227
- 879 **76-10-1008**, as last amended by Laws of Utah 1995, Chapter 20
- 880 **76-10-1009**, as enacted by Laws of Utah 1973, Chapter 196
- 881 **76-10-1010**, as enacted by Laws of Utah 1973, Chapter 196
- 882 **76-10-1101.5**, as enacted by Laws of Utah 2020, Chapter 291
- 883 **76-10-1106**, as last amended by Laws of Utah 1990, Chapter 118
- 884 **76-10-1108**, as last amended by Laws of Utah 2023, Chapter 448
- 885 **76-10-1218**, as enacted by Laws of Utah 1977, Chapter 93
- 886 **76-10-1221**, as last amended by Laws of Utah 2010, Chapter 43
- 887 **76-10-1224**, as enacted by Laws of Utah 1977, Chapter 93
- 888 **76-10-1225**, as last amended by Laws of Utah 1993, Chapter 38
- 889 **76-10-1226**, as last amended by Laws of Utah 1990, Chapter 138
- 890 **76-10-1227**, as last amended by Laws of Utah 2007, Chapter 123
- 891 **76-10-1229.5**, as enacted by Laws of Utah 1995, Chapter 131
- 892 **76-10-1234**, as last amended by Laws of Utah 2008, Chapter 382

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- 893 **76-10-1308**, as enacted by Laws of Utah 1991, Chapter 107
- 894 **76-10-1310**, as last amended by Laws of Utah 2011, Chapter 70
- 895 **76-10-1501**, as enacted by Laws of Utah 1979, Chapter 72
- 896 **76-10-1502**, as enacted by Laws of Utah 1979, Chapter 72
- 897 **76-10-1511**, as enacted by Laws of Utah 1979, Chapter 72
- 898 **76-10-1601**, as last amended by Laws of Utah 1987, Chapter 238
- 899 **76-10-1603.5**, as last amended by Laws of Utah 2013, Chapter 394
- 900 **76-10-1901**, as enacted by Laws of Utah 1989, Chapter 241
- 901 **76-10-1904**, as last amended by Laws of Utah 1996, Chapter 17
- 902 **76-10-1907**, as enacted by Laws of Utah 1989, Chapter 241
- 903 **76-10-2001**, as enacted by Laws of Utah 1989, Chapter 179
- 904 **76-10-2401**, as last amended by Laws of Utah 2002, Chapter 31
- 905 **76-10-2702**, as enacted by Laws of Utah 2008, Chapter 22
- 906 **76-10-3003**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 907 **76-10-3004**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 908 **76-10-3101**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 909 **76-10-3113**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 910 **76-10-3118**, as renumbered and amended by Laws of Utah 2013, Chapter 187

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

913 Section 1. Section **4-2-903** is amended to read:

914 **4-2-903 . Animal care violations.**

- 915 (1) "Animal care facility" means the same as that term is defined in Section [76-9-301.9]
- 916 76-13-215.
- 917 (2) The department may, in accordance with this section and as resources allow, respond to
- 918 a complaint that an animal care facility has violated Subsection [76-9-301(2)(a)]
- 919 76-13-202(2)(a) or Section [76-9-301.9] 76-13-215.
- 920 (3) If the department determines that a person has violated Subsection [76-9-301(2)(a)]
- 921 76-13-202(2)(a) or Section [76-9-301.9] 76-13-215, the department may:
- 922 (a) impose a civil fine of up to \$500 per violation;
- 923 (b) seek a temporary restraining order;

- 924 (c) seek an injunction;
- 925 (d) seek an order of seizure or condemnation for an animal that is the subject of the
- 926 violation, if the department has identified a suitable animal care facility that accepts
- 927 custody of the animal; or
- 928 (e) report the circumstances to law enforcement or a prosecutor.

929 (4) An action by the department under Subsection (3) may precede and does not preclude a

930 criminal penalty or criminal prosecution under Section [~~76-9-301 or 76-9-301.9~~]

931 76-13-202, 76-13-203, 76-13-204, or 76-13-215.

932 (5) The department shall deposit a fine imposed under Subsection (3) into the General Fund

933 as a dedicated credit to be used by the department for enforcement of this section.

934 Section 2. Section **4-25-303** is amended to read:

935 **4-25-303 . Feral swine detrimental to state's interests -- Seizure, capture, or**

936 **destruction of feral swine.**

- 937 (1) Feral swine are detrimental to the state's interests in agriculture and wildlife.
- 938 (2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in any
- 939 manner by:
 - 940 (a) the department and the department's authorized agents;
 - 941 (b) the Division of Wildlife Resources and the Division of Wildlife Resources'
 - 942 authorized agents; or
 - 943 (c) a certified peace officer.
- 944 (3)(a) Notwithstanding [~~Section 76-9-301~~] Section 76-13-202, 76-13-203, or 76-13-204,
- 945 and subject to the requirements of this section, an individual may kill a feral swine
- 946 roaming on private or public land.
 - 947 (b) An individual shall obtain the consent of the landowner before killing a feral swine
 - 948 on private land.
 - 949 (c) Feral swine may be killed:
 - 950 (i) year-round;
 - 951 (ii) in any number; and
 - 952 (iii) with a firearm, bow and arrow, or crossbow.
- 953 (4) Feral swine may not be hunted or killed under Subsection (3)(c):
 - 954 (a) with the use of artificial light or night vision equipment, except as authorized by

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- 955 county ordinance; or
- 956 (b) from or with any airborne vehicle or device, except as provided in Section 4-23-106.
- 957 (5) An individual may not receive compensation, or attempt to receive compensation, from
- 958 hunting feral swine.
- 959 (6) An authorized individual who kills a swine under this section is not liable to the owner
- 960 for the loss of the swine, unless:
- 961 (a) the swine is conspicuously identified by an ear tag or other form of visual
- 962 identification; and
- 963 (b) the individual who killed the swine knew the swine was identified by an ear tag or
- 964 other form of usual identification.
- 965 Section 3. Section **4-41a-102** is amended to read:
- 966 **4-41a-102 . Definitions.**
- 967 As used in this chapter:
- 968 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be
- 969 injurious to health, including:
- 970 (a) pesticides;
- 971 (b) heavy metals;
- 972 (c) solvents;
- 973 (d) microbial life;
- 974 (e) artificially derived cannabinoid;
- 975 (f) toxins; or
- 976 (g) foreign matter.
- 977 (2) "Advertise" or "advertising" means information provided by a person in any medium:
- 978 (a) to the public; and
- 979 (b) that is not age restricted to an individual who is at least 21 years old.
- 980 (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in
- 981 Section 26B-1-435.
- 982 (4)(a) "Anticompetitive business practice" means any practice that reduces the amount
- 983 of competition in the medical cannabis market that would be considered an attempt to
- 984 monopolize, as defined in Section ~~[76-10-3103]~~ 76-16-501.
- 985 (b) "Anticompetitive business practice" may include:

- 986 (i) agreements that may be considered unreasonable when competitors interact to the
987 extent that they are:
988 (A) no longer acting independently; or
989 (B) when collaborating are able to wield market power together;
- 990 (ii) monopolizing or attempting to monopolize trade by:
991 (A) acting to maintain or acquire a dominant position in the market; or
992 (B) preventing new entry into the market; or
993 (iii) other conduct outlined in rule.
- 994 (5)(a) "Artificially derived cannabinoid" means a chemical substance that is created by
995 a chemical reaction that changes the molecular structure of any chemical substance
996 derived from the cannabis plant.
- 997 (b) "Artificially derived cannabinoid" does not include:
998 (i) a naturally occurring chemical substance that is separated from the cannabis plant
999 by a chemical or mechanical extraction process; or
1000 (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring
1001 cannabinoid acid without the use of a chemical catalyst.
- 1002 (6) "Cannabis Research Review Board" means the Cannabis Research Review Board
1003 created in Section 26B-1-420.
- 1004 (7) "Cannabis" means the same as that term is defined in Section 26B-4-201.
- 1005 (8) "Cannabis concentrate" means:
1006 (a) the product of any chemical or physical process applied to naturally occurring
1007 biomass that concentrates or isolates the cannabinoids contained in the biomass; and
1008 (b) any amount of a natural cannabinoid or artificially derived cannabinoid in an
1009 artificially derived cannabinoid's purified state.
- 1010 (9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not
1011 intended to be sold as a cannabis plant product.
- 1012 (10) "Cannabis cultivation facility" means a person that:
1013 (a) possesses cannabis;
1014 (b) grows or intends to grow cannabis; and
1015 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
1016 processing facility, or a medical cannabis research licensee.

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- 1017 (11) "Cannabis cultivation facility agent" means an individual who
1018 holds a valid cannabis production establishment agent registration card with a cannabis
1019 cultivation facility designation.
- 1020 (12) "Cannabis derivative product" means a product made using cannabis concentrate.
- 1021 (13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in
1022 a form that is recognizable as a portion of a cannabis plant.
- 1023 (14) "Cannabis processing facility" means a person that:
- 1024 (a) acquires or intends to acquire cannabis from a cannabis production establishment;
- 1025 (b) possesses cannabis with the intent to manufacture a cannabis product;
- 1026 (c) manufactures or intends to manufacture a cannabis product from unprocessed
1027 cannabis or a cannabis extract; and
- 1028 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
1029 medical cannabis research licensee.
- 1030 (15) "Cannabis processing facility agent" means an individual who
1031 holds a valid cannabis production establishment agent registration card with a cannabis
1032 processing facility designation.
- 1033 (16) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
- 1034 (17) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis
1035 processing facility, or an independent cannabis testing laboratory.
- 1036 (18) "Cannabis production establishment agent" means a cannabis cultivation facility agent,
1037 a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- 1038 (19) "Cannabis production establishment agent registration card" means a registration card
1039 that the department issues that:
- 1040 (a) authorizes an individual to act as a cannabis production establishment agent; and
- 1041 (b) designates the type of cannabis production establishment for which an individual is
1042 authorized to act as an agent.
- 1043 (20) "Closed-door medical cannabis pharmacy" means a facility operated by a home
1044 delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis
1045 product.
- 1046 (21) "Community location" means a public or private elementary or secondary school, a
1047 church, a public library, a public playground, or a public park.

- 1048 (22) "Cultivation space" means, quantified in square feet, the horizontal area in which a
1049 cannabis cultivation facility cultivates cannabis, including each level of horizontal area
1050 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants
1051 above other plants in multiple levels.
- 1052 (23) "Delivery address" means:
- 1053 (a) for a medical cannabis cardholder who is not a facility:
- 1054 (i) the medical cannabis cardholder's home address; or
- 1055 (ii) an address designated by the medical cannabis cardholder that:
- 1056 (A) is the medical cannabis cardholder's workplace; and
- 1057 (B) is not a community location; or
- 1058 (b) for a medical cannabis cardholder that is a facility, the facility's address.
- 1059 (24) "Department" means the Department of Agriculture and Food.
- 1060 (25) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
1061 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
1062 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- 1063 (26) "Government issued photo identification" means the same as that term is defined in
1064 Section 26B-4-201, including expired identification in accordance with Section
1065 26B-4-244.
- 1066 (27) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that
1067 the department authorizes, as part of the pharmacy's license, to deliver medical cannabis
1068 shipments to a delivery address to fulfill electronic orders that the state central patient
1069 portal facilitates.
- 1070 (28)(a) "Independent cannabis testing laboratory" means a person that:
- 1071 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
- 1072 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent
1073 to conduct a chemical or other analysis of the cannabis or cannabis product.
- 1074 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
1075 or a research university operates in accordance with Subsection 4-41a-201(14).
- 1076 (29) "Independent cannabis testing laboratory agent" means an individual who
1077 holds a valid cannabis production establishment agent registration card with an independent
1078 cannabis testing laboratory designation.

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- 1079 (30) "Inventory control system" means a system described in Section 4-41a-103.
- 1080 (31) "Licensing board" or "board" means the Cannabis Production Establishment and
1081 Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.
- 1082 (32) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
- 1083 (33) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.
- 1084 (34) "Medical cannabis courier" means a courier that:
- 1085 (a) the department licenses in accordance with Section 4-41a-1201; and
- 1086 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
1087 cannabis shipments to fulfill electronic orders that the state central patient portal
1088 facilitates.
- 1089 (35) "Medical cannabis courier agent" means an individual who:
- 1090 (a) is an employee of a medical cannabis courier; and
- 1091 (b) who holds a valid medical cannabis courier agent registration card.
- 1092 (36) "Medical cannabis pharmacy" means the same as that term is defined in Section
1093 26B-4-201.
- 1094 (37) "Medical cannabis pharmacy agent" means the same as that term is defined in Section
1095 26B-4-201.
- 1096 (38) "Medical cannabis research license" means a license that the department issues to a
1097 research university for the purpose of obtaining and possessing medical cannabis for
1098 academic research.
- 1099 (39) "Medical cannabis research licensee" means a research university that the department
1100 licenses to obtain and possess medical cannabis for academic research, in accordance
1101 with Section 4-41a-901.
- 1102 (40) "Medical cannabis shipment" means a shipment of medical cannabis that a home
1103 delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery
1104 address to fulfill an electronic medical cannabis order that the state central patient portal
1105 facilitates.
- 1106 (41) "Medical cannabis treatment" means the same as that term is defined in Section
1107 26B-4-201.
- 1108 (42) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.
- 1109 (43) "Pharmacy ownership limit" means an amount equal to 30% of the total number of

- 1110 medical cannabis pharmacy licenses issued by the department rounded down to the
1111 nearest whole number.
- 1112 (44) "Pharmacy medical provider" means the same as that term is defined in Section
1113 26B-4-201.
- 1114 (45) "Qualified medical provider" means the same as that term is defined in Section
1115 26B-4-201.
- 1116 (46) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.
- 1117 (47) "Recommending medical provider" means the same as that term is defined in Section
1118 26B-4-201.
- 1119 (48) "Research university" means the same as that term is defined in Section 53B-7-702 and
1120 a private, nonprofit college or university in the state that:
- 1121 (a) is accredited by the Northwest Commission on Colleges and Universities;
1122 (b) grants doctoral degrees; and
1123 (c) has a laboratory containing or a program researching a schedule I controlled
1124 substance described in Section 58-37-4.
- 1125 (49) "State electronic verification system" means the system described in Section 26B-4-202.
- 1126 (50) "Targeted marketing" means the promotion of a cannabis product, medical cannabis
1127 brand, or a medical cannabis device using any of the following methods:
- 1128 (a) electronic communication to an individual who is at least 21 years old and has
1129 requested to receive promotional information;
- 1130 (b) an in-person marketing event that is:
- 1131 (i) held inside a medical cannabis pharmacy; and
1132 (ii) in an area where only a medical cannabis cardholder may access the event;
- 1133 (c) other marketing material that is physically available or digitally displayed in a
1134 medical cannabis pharmacy; or
- 1135 (d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is
1136 provided to an individual when obtaining medical cannabis:
- 1137 (i) in the medical cannabis pharmacy;
1138 (ii) at the medical cannabis pharmacy's drive-through pick up window; or
1139 (iii) in a medical cannabis shipment.
- 1140 (51) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section

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1141 4-41-102.

1142 (52) "THC analog" means the same as that term is defined in Section 4-41-102.

1143 (53) "Total composite tetrahydrocannabinol" means all detectable forms of
1144 tetrahydrocannabinol.

1145 (54) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in
1146 Section 4-41-102.

1147 Section 4. Section **4-44-202** is amended to read:

1148 **4-44-202 . Application of other statutes -- Ordinances.**

1149 (1)(a) In a civil action for nuisance or a criminal action for public nuisance under
1150 Section [~~76-10-803~~] 76-9-1301, it is a defense if the action involves agricultural
1151 operations and those agricultural operations are conducted in the normal and ordinary
1152 course of agricultural operations or conducted in accordance with sound agricultural
1153 practices.

1154 (b) Agricultural operations undertaken in conformity with federal, state, and local laws
1155 and regulations, including zoning ordinances, are presumed to be operating within
1156 sound agricultural practices.

1157 (2) If the agricultural operations occur in an agricultural protection area, as defined in
1158 Section 17-41-101, Section 17-41-403 governs the action for nuisance.

1159 (3)(a) An ordinance of a political subdivision that would make the operation of an
1160 agricultural operation or appurtenances to an agricultural operation a nuisance or that
1161 provide for abatement of the agricultural operation as a nuisance does not apply to an
1162 agricultural operation that is conducted in the normal and ordinary course of
1163 agricultural operations or conducted in accordance with sound agricultural practices.

1164 (b) An agricultural operation undertaken in conformity with federal, state, and local laws
1165 and regulations, including zoning ordinances, are presumed to be operating within
1166 sound agricultural practices.

1167 Section 5. Section **9-7-215** is amended to read:

1168 **9-7-215 . Internet and online access policy required.**

1169 (1) As used in this section:

1170 (a) "Child sexual abuse material" means the same as that term is defined in Section
1171 76-5b-103.

1172 (b) "Harmful to minors" means the same as that term is defined in Section [~~76-10-1201~~]
1173 76-5c-101.

1174 (c) "Obscene" means the same as that term is defined in 20 U.S.C. Sec. 9101.

1175 (d) "Technology protection measure" means a technology that blocks or filters Internet
1176 access to visual depictions.

1177 (2) State funds may not be provided to any public library that provides public access to the
1178 Internet unless the library:

1179 (a)(i) has in place a policy of Internet safety for minors, including the operation of a
1180 technology protection measure:

1181 (A) with respect to any computer or other device while connected to the Internet
1182 through a network provided by the library, including a wireless network; and

1183 (B) that protects against access to visual depictions that are child sexual abuse
1184 materials, harmful to minors, or obscene; and

1185 (ii) is enforcing the operation of the technology protection measure described in
1186 Subsection (2)(a)(i) during any use by a minor of a computer or other device that
1187 is connected to the Internet through a network provided by the library, including a
1188 wireless network; and

1189 (b)(i) has in place a policy of Internet safety, including the operation of a technology
1190 protection measure:

1191 (A) with respect to any computer or other device while connected to the Internet
1192 through a network provided by the library, including a wireless network; and

1193 (B) that protects against access to visual depictions that are child sexual abuse
1194 materials, harmful to minors, or obscene; and

1195 (ii) is enforcing the operation of the technology protection measure described in
1196 Subsection (2)(b)(i) during any use of a computer or other device that is connected
1197 to the Internet through a network provided by the library, including a wireless
1198 network.

1199 (3) This section does not prohibit a public library from limiting Internet access or otherwise
1200 protecting against materials other than the materials specified in this section.

1201 (4) An administrator, supervisor, or other representative of a public library may disable a
1202 technology protection measure described in Subsection (2):

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- 1203 (a) at the request of a library patron who is not a minor; and
1204 (b) to enable access for research or other lawful purposes.

1205 Section 6. Section **9-8a-304** is amended to read:

1206 **9-8a-304 . Antiquities Section created -- Duties.**

- 1207 (1) There is created within the office the Antiquities Section.
1208 (2) The Antiquities Section shall:
1209 (a) promote research, study, and activities in the field of antiquities;
1210 (b) assist with the marking, protection, and preservation of sites;
1211 (c) assist with the collection, preservation, and administration of specimens until the
1212 specimens are placed in a repository or curation facility;
1213 (d) provide advice on the protection and orderly development of archaeological
1214 resources, and in doing so confer with the Public Lands Policy Coordinating Office if
1215 requested;
1216 (e) assist with the excavation, retrieval, and proper care of ancient human remains
1217 discovered on nonfederal lands in accordance with:
1218 (i) Section 9-8a-309;
1219 (ii) Section 9-9-403;
1220 (iii) ~~[Subsection 76-9-704(3)]~~ Subsection 76-5-802(4);
1221 (iv) Subsection 76-5-803(4); and
1222 ~~[(iv)]~~ (v) federal law;
1223 (f) collect and administer site survey and excavation records;
1224 (g) edit and publish antiquities records;
1225 (h) inform the officer in writing about any request for advice or consultation from an
1226 agency or an agency's agent; and
1227 (i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.
1228 (3) The Antiquities Section shall cooperate with local, state, and federal agencies and all
1229 interested persons to achieve the purposes of this part and Part 4, Historic Sites.
1230 (4) Before performing the duties specified in Subsections (2)(a) through (e), the Antiquities
1231 Section shall obtain permission from the landowner.

1232 Section 7. Section **9-8a-309** is amended to read:

1233 **9-8a-309 . Ancient human remains on nonfederal lands that are not state lands.**

- 1234 (1) If a person knows or has reason to know that the person discovered ancient human
1235 remains on nonfederal land that is not state land:
- 1236 (a) the person shall:
- 1237 (i) cease activity in the area of the discovery until activity may be resumed in
1238 accordance with Subsection (1)(e);
- 1239 (ii) notify a local law enforcement agency in accordance with Section [~~76-9-704~~]
1240 76-5-803; and
- 1241 (iii) notify the person who owns or controls the nonfederal land, if that person is
1242 different than the person who discovers the ancient human remains; and
- 1243 (b) the person who owns or controls the nonfederal land shall:
- 1244 (i) require that activity in the area of the discovery cease until activity may be
1245 resumed in accordance with Subsection (1)(e); and
- 1246 (ii) make a reasonable effort to protect the discovered ancient human remains before
1247 activity may be resumed in accordance with Subsection (1)(e).
- 1248 (c)(i) If the local law enforcement agency believes after being notified under this
1249 Subsection (1) that a person may have discovered ancient human remains, the
1250 local law enforcement agency shall contact the Antiquities Section.
- 1251 (ii) The Antiquities Section shall:
- 1252 (A) within two business days of the day on which the Antiquities Section is
1253 notified by local law enforcement, notify the landowner that the Antiquities
1254 Section may excavate and retrieve the human remains with the landowner's
1255 permission; and
- 1256 (B) if the landowner gives the landowner's permission, excavate the human
1257 remains by no later than:
- 1258 (I) five business days from the day on which the Antiquities Section obtains the
1259 permission of the landowner under this Subsection (1); or
- 1260 (II) if extraordinary circumstances exist as provided in Subsection (1)(d),
1261 within the time period designated by the director not to exceed 30 days from
1262 the day on which the Antiquities Section obtains the permission of the
1263 landowner under this Subsection (1).
- 1264 (d)(i) The director may grant the Antiquities Section an extension of time for

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- 1265 excavation and retrieval of ancient human remains not to exceed 30 days from the
1266 day on which the Antiquities Section obtains the permission of the landowner
1267 under this Subsection (1), if the director determines that extraordinary
1268 circumstances exist on the basis of objective criteria such as:
- 1269 (A) the unusual scope of the ancient human remains;
 - 1270 (B) the complexity or difficulty of excavation or retrieval of the ancient human
1271 remains; or
 - 1272 (C) the landowner's concerns related to the excavation or retrieval of the ancient
1273 human remains.
- 1274 (ii) If the landowner objects to the time period designated by the director, the
1275 landowner may appeal the decision to the executive director of the department in
1276 writing.
- 1277 (iii) If the executive director receives an appeal from the landowner under this
1278 Subsection (1)(d), the executive director shall:
- 1279 (A) decide on the appeal within two business days; and
 - 1280 (B)(I) uphold the decision of the director; or
 - 1281 (II) designate a shorter time period than the director designated for the
1282 excavation and retrieval of the ancient human remains.
- 1283 (iv) An appeal under this Subsection (1)(d) may not be the cause for the delay of the
1284 excavation and retrieval of the ancient human remains.
- 1285 (v) A decision and appeal under this Subsection (1)(d) is exempt from Title 63G,
1286 Chapter 4, Administrative Procedures Act.
- 1287 (e) A person that owns or controls nonfederal land that is not state land may engage in or
1288 permit others to engage in activities in the area of the discovery without violating this
1289 part or [~~Section 76-9-704~~] Sections 76-5-802 and 76-5-803 if once notified of the
1290 discovery of ancient human remains on the nonfederal land, the person:
- 1291 (i) consents to the Antiquities Section excavating and retrieving the ancient human
1292 remains; and
 - 1293 (ii) engages in or permits others to engage in activities in the area of the discovery
1294 only after:
 - 1295 (A) the day on which the Antiquities Section removes the ancient human remains

- 1296 from the nonfederal land; or
- 1297 (B) the time period described in Subsection (1)(c)(ii)(B).
- 1298 (2) A person that owns or controls nonfederal land that is not state land may not be required
- 1299 to pay any costs incurred by the state associated with the ancient human remains,
- 1300 including costs associated with the costs of the:
- 1301 (a) discovery of ancient human remains;
- 1302 (b) excavation or retrieval of ancient human remains; or
- 1303 (c) determination of ownership or disposition of ancient human remains.
- 1304 (3) For nonfederal land that is not state land, nothing in this section limits or prohibits the
- 1305 Antiquities Section and a person who owns or controls the nonfederal land from entering
- 1306 into an agreement addressing the ancient human remains that allows for different terms
- 1307 than those provided in this section.
- 1308 (4) The ownership and control of ancient human remains that are the ancient human
- 1309 remains of a Native American shall be determined in accordance with Chapter 9, Part 4,
- 1310 Native American Grave Protection and Repatriation Act:
- 1311 (a) if the ancient human remains are in possession of the state;
- 1312 (b) if the ancient human remains are not known to have been discovered on lands
- 1313 owned, controlled, or held in trust by the federal government; and
- 1314 (c) regardless of when the ancient human remains are discovered.
- 1315 (5) This section:
- 1316 (a) does not apply to ancient human remains that are subject to the provisions and
- 1317 procedures of:
- 1318 (i) federal law; or
- 1319 (ii) Part 4, Historic Sites; and
- 1320 (b) does not modify any property rights of a person that owns or controls nonfederal
- 1321 land except as to the ownership of the ancient human remains.
- 1322 (6) The office, Antiquities Section, or Division of Indian Affairs may not make rules that
- 1323 impose any requirement on a person who discovers ancient human remains or who owns
- 1324 or controls nonfederal land that is not state land on which ancient human remains are
- 1325 discovered that is not expressly provided for in this section.
- 1326 Section 8. Section **9-9-403** is amended to read:

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1327 **9-9-403 . Ownership and disposition of Native American remains.**

- 1328 (1) If Native American remains are discovered on nonfederal lands on or after April 30,
1329 2007, the ownership or control of the Native American remains shall be determined in
1330 the following priority:
- 1331 (a) first, in the lineal descendants of the Native American;
 - 1332 (b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:
 - 1333 (i) has the closest cultural affiliation with the Native American remains; and
 - 1334 (ii) states a claim for the Native American remains; or
 - 1335 (c) third:
 - 1336 (i) in the Indian tribe that is recognized as aboriginally occupying the area in which
1337 the Native American remains are discovered, if:
 - 1338 (A) cultural affiliation of the Native American remains cannot be reasonably
1339 ascertained;
 - 1340 (B) the land is recognized either by a final judgment of the Indian Claims
1341 Commission or through other evidence as the exclusive or joint aboriginal land
1342 of some Indian tribe; and
 - 1343 (C) that tribe states a claim for the Native American remains; or
 - 1344 (ii) in a different tribe if:
 - 1345 (A) it can be shown by a preponderance of the evidence that that different tribe
1346 has a stronger genetic or cultural relationship with the Native American
1347 remains; and
 - 1348 (B) that different tribe states a claim for the Native American remains.
- 1349 (2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that
1350 are not claimed under Subsection (1) shall be disposed of in accordance with rules made
1351 by the division:
- 1352 (a) consistent with Chapter 8a, Part 3, Antiquities; and
 - 1353 (b) in consultation with Native American groups, representatives of repositories, and the
1354 review committee established under Section 9-9-405.
- 1355 (3) The intentional removal or excavation of Native American remains from state lands
1356 may be permitted only if:
- 1357 (a) the Native American remains are excavated or removed pursuant to a permit issued

- 1358 under Section 9-8a-305;
- 1359 (b) the Native American remains are excavated or removed after consultation with and
1360 written consent of the owner of the state land; and
- 1361 (c) the ownership or right of control of the disposition of the Native American remains is
1362 determined as provided in Subsections (1) and (2).
- 1363 (4)(a) A person who knows or has reason to know that the person has discovered Native
1364 American remains on state lands after March 17, 1992, shall notify, in writing, the
1365 appropriate state agency having primary management authority over the lands as
1366 provided in Chapter 8a, Part 3, Antiquities.
- 1367 (b) If the discovery occurs in connection with construction, mining, logging, agriculture,
1368 or a related activity, the person shall:
- 1369 (i) cease the activity in the area of the discovery;
- 1370 (ii) make a reasonable effort to protect the Native American remains discovered
1371 before resuming the activity; and
- 1372 (iii) provide notice of discovery to the appropriate state agency under Subsection
1373 (4)(a).
- 1374 (c) Following notification under Subsections (4)(a) and (b) and upon certification by the
1375 head of the appropriate state agency that notification is received, the activity may
1376 resume after compliance with ~~[Section 76-9-704]~~ Sections 76-5-802 and 76-5-803.
- 1377 (5)(a) Scientific study of Native American remains may be carried out only with
1378 approval of the owner of the Native American remains as established in Subsections
1379 (1) and (2).
- 1380 (b)(i) If ownership is unknown, study before identifying ownership is restricted to
1381 those sufficient to identify ownership.
- 1382 (ii) Study to identify ownership shall be approved only in accordance with rules made
1383 by the division in consultation with the review committee.
- 1384 (c) The Native American remains may not be retained longer than 90 days after the date
1385 of establishing ownership.
- 1386 (6)(a) Ownership of Native American remains shall be determined in accordance with
1387 this Subsection (6) if:
- 1388 (i) there are multiple claims of ownership under Subsection (1) of Native American

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- 1389 remains; and
- 1390 (ii) the division cannot clearly determine which claimant is the most appropriate
- 1391 claimant.
- 1392 (b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having
- 1393 primary authority over the lands as provided in Chapter 8a, Part 3, Antiquities, may
- 1394 retain the remains until:
- 1395 (i) the multiple claimants for the Native American remains enter into an agreement
- 1396 concerning the disposition of the Native American remains;
- 1397 (ii) the dispute is resolved through an administrative process:
- 1398 (A) established by rules made by the division in accordance with Title 63G,
- 1399 Chapter 3, Utah Administrative Rulemaking Act; and
- 1400 (B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or
- 1401 (iii) after the administrative process described in Subsection (6)(b)(ii) is complete,
- 1402 the dispute is resolved by a court of competent jurisdiction.
- 1403 (7) The division may not make rules that impose any requirement on a person who
- 1404 discovers Native American remains or owns or controls nonfederal land that is not state
- 1405 land on which Native American remains are discovered that is not expressly provided
- 1406 for in Section 9-8a-309.
- 1407 (8) For purposes of this part, if Native American remains are discovered on nonfederal land
- 1408 that is not state land, the Antiquities Section is considered the state agency having
- 1409 primary authority over the nonfederal land.
- 1410 (9) This part does not modify any property rights of a person that owns or controls
- 1411 nonfederal land except as to the ownership of Native American remains.
- 1412 Section 9. Section **9-23-306** is amended to read:
- 1413 **9-23-306 . Club fighting prohibited.**
- 1414 (1) Club fighting is prohibited.
- 1415 (2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:
- 1416 (a) guilty of a class A misdemeanor as provided in Section ~~[76-9-705]~~ 76-9-112; and
- 1417 (b) subject to license revocation under this chapter.
- 1418 Section 10. Section **10-8-41.5** is amended to read:
- 1419 **10-8-41.5 . Regulation of sexually oriented business.**

- 1420 (1) As used in this section:
- 1421 (a) "Adult service" means dancing, serving food or beverages, modeling, posing,
1422 wrestling, singing, reading, talking, listening, or other performances or activities
1423 conducted by a nude or partially denuded individual for compensation.
- 1424 (b) "Compensation" means:
- 1425 (i) a salary;
- 1426 (ii) a fee;
- 1427 (iii) a commission;
- 1428 (iv) employment;
- 1429 (v) a profit; or
- 1430 (vi) other pecuniary gain.
- 1431 (c)(i) "Escort" means a person who, for compensation, dates, socializes with, visits,
1432 consorts with, or accompanies another, or offers to date, consort with, socialize
1433 with, visit, or accompany another:
- 1434 (A) to a social affair, entertainment, or a place of amusement; or
- 1435 (B) within a place of public or private resort, a business or commercial
1436 establishment, or a private quarter.
- 1437 (ii) "Escort" does not mean a person who provides business or personal services,
1438 including:
- 1439 (A) a licensed private nurse;
- 1440 (B) an aide for the elderly or a person with a disability;
- 1441 (C) a social secretary or similar service personnel whose relationship with a patron
1442 is characterized by a contractual relationship having a duration of 12 hours or
1443 more and who provides a service not principally characterized as dating or
1444 socializing; or
- 1445 (D) a person who provides services such as singing telegrams, birthday greetings,
1446 or similar activities that are characterized by an appearance in a public place,
1447 contracted for by a party other than the person for whom the service is being
1448 performed, and of a duration not to exceed one hour.
- 1449 (d) "Escort service" means any person who furnishes or arranges for an escort to
1450 accompany another individual for compensation.

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- 1451 (e) "Nude or partially denuded individual" means an individual with any of the
1452 following less than completely and opaquely covered:
- 1453 (i) genitals;
 - 1454 (ii) the pubic region; or
 - 1455 (iii) a female breast below a point immediately above the top of the areola.
- 1456 (f)(i) "Sexually oriented business" means a business at which any nude or partially
1457 denuded individual, regardless of whether the nude or partially denuded individual
1458 is an employee of the sexually oriented business or an independent contractor,
1459 performs any service for compensation.
- 1460 (ii) "Sexually oriented business" includes:
 - 1461 (A) an escort service; or
 - 1462 (B) an adult service.
- 1463 (2) A person employed in a sexually oriented business may not work in a municipality if:
- 1464 (a) the municipality requires that a person employed in a sexually oriented business
1465 obtain an individual license; and
 - 1466 (b) the person has not obtained an individual license from the municipality.
- 1467 (3) A business entity that conducts a sexually oriented business may not conduct business
1468 in a municipality if:
- 1469 (a) the municipality requires that a sexually oriented business obtain a license; and
 - 1470 (b) the business entity has not obtained a license from the municipality.
- 1471 (4)(a) A violation of this section by an individual who is at least 18 years old is a class
1472 A misdemeanor.
- 1473 (b) A person charged under this section may not also be charged under Section [
1474 ~~76-10-1302~~] ~~76-5d-202~~.
- 1475 Section 11. Section **10-8-41.6** is amended to read:
- 1476 **10-8-41.6 . Regulation of retail tobacco specialty business.**
- 1477 (1) As used in this section:
- 1478 (a) "Community location" means:
 - 1479 (i) a public or private kindergarten, elementary, middle, junior high, or high school;
 - 1480 (ii) a licensed child-care facility or preschool;
 - 1481 (iii) a trade or technical school;

- 1482 (iv) a church;
- 1483 (v) a public library;
- 1484 (vi) a public playground;
- 1485 (vii) a public park;
- 1486 (viii) a youth center or other space used primarily for youth oriented activities;
- 1487 (ix) a public recreational facility;
- 1488 (x) a public arcade; or
- 1489 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 1490 (b) "Department" means the Department of Health and Human Services created in
- 1491 Section 26B-1-201.
- 1492 (c) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]
- 1493 76-9-1101.
- 1494 (d) "Licensee" means a person licensed under this section to conduct business as a retail
- 1495 tobacco specialty business.
- 1496 (e) "Local health department" means the same as that term is defined in Section
- 1497 26A-1-102.
- 1498 (f) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]
- 1499 76-9-1101.
- 1500 (g) "Retail tobacco specialty business" means a commercial establishment in which:
- 1501 (i) sales of tobacco products, electronic cigarette products, and nicotine products
- 1502 account for more than 35% of the total quarterly gross receipts for the
- 1503 establishment;
- 1504 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 1505 storage of tobacco products, electronic cigarette products, or nicotine products;
- 1506 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
- 1507 of tobacco products, electronic cigarette products, or nicotine products;
- 1508 (iv) the commercial establishment:
- 1509 (A) holds itself out as a retail tobacco specialty business; and
- 1510 (B) causes a reasonable person to believe the commercial establishment is a retail
- 1511 tobacco specialty business; or
- 1512 (v) the retail space features a self-service display for tobacco products, electronic

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- 1513 cigarette products, or nicotine products.
- 1514 (h) "Self-service display" means the same as that term is defined in Section ~~[76-10-105.1]~~
1515 76-9-1107.
- 1516 (i) "Tobacco product" means:
- 1517 (i) a tobacco product as defined in Section ~~[76-10-101]~~ 76-9-1101; or
- 1518 (ii) tobacco paraphernalia as defined in Section ~~[76-10-101]~~ 76-9-1101.
- 1519 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
1520 of the state by the state or by delegation of the state's police powers to other
1521 governmental entities.
- 1522 (3)(a) A person may not operate a retail tobacco specialty business in a municipality
1523 unless the person obtains a license from the municipality in which the retail tobacco
1524 specialty business is located.
- 1525 (b) A municipality may only issue a retail tobacco specialty business license to a person
1526 if the person complies with the provisions of Subsections (4) and (5).
- 1527 (4)(a) Except as provided in Subsection (7), a municipality may not issue a license for a
1528 person to conduct business as a retail tobacco specialty business if the retail tobacco
1529 specialty business is located within:
- 1530 (i) 1,000 feet of a community location;
- 1531 (ii) 600 feet of another retail tobacco specialty business; or
- 1532 (iii) 600 feet from property used or zoned for:
- 1533 (A) agriculture use; or
- 1534 (B) residential use.
- 1535 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
1536 straight line from the nearest entrance of the retail tobacco specialty business to the
1537 nearest property boundary of a location described in Subsections (4)(a)(i) through
1538 (iii), without regard to intervening structures or zoning districts.
- 1539 (5) A municipality may not issue or renew a license for a person to conduct business as a
1540 retail tobacco specialty business until the person provides the municipality with proof
1541 that the retail tobacco specialty business has:
- 1542 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
1543 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the

1544 local health department having jurisdiction over the area in which the retail tobacco
1545 specialty business is located; and

1546 (b)(i) for a retailer that sells a tobacco product, a valid license issued by the State
1547 Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a
1548 tobacco product; and

1549 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
1550 license issued by the State Tax Commission in accordance with Section 59-14-803
1551 to sell an electronic cigarette product or a nicotine product.

1552 (6)(a) Nothing in this section:

1553 (i) requires a municipality to issue a retail tobacco specialty business license; or

1554 (ii) prohibits a municipality from adopting more restrictive requirements on a person
1555 seeking a license or renewal of a license to conduct business as a retail tobacco
1556 specialty business.

1557 (b) A municipality may suspend or revoke a retail tobacco specialty business license
1558 issued under this section:

1559 (i) if a licensee engages in a pattern of unlawful activity under [~~Title 76, Chapter 10,~~
1560 ~~Part 16, Pattern of Unlawful Activity Act~~] Title 76, Chapter 17, Part 4, Offenses
1561 Concerning a Pattern of Unlawful Activity;

1562 (ii) if a licensee violates federal law or federal regulations restricting the sale and
1563 distribution of tobacco products or electronic cigarette products to protect children
1564 and adolescents;

1565 (iii) upon the recommendation of the department or a local health department under
1566 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
1567 Nicotine Products; or

1568 (iv) under any other provision of state law or local ordinance.

1569 (7)(a) A retail tobacco specialty business is exempt from Subsection (4) if:

1570 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
1571 license to conduct business as a retail tobacco specialty business;

1572 (ii) the retail tobacco specialty business is operating in a municipality in accordance
1573 with all applicable laws except for the requirement in Subsection (4); and

1574 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within

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1575 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
1576 high school.

1577 (b) A retail tobacco specialty business may maintain an exemption under Subsection
1578 (7)(a) if:

1579 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
1580 or permanent revocation;

1581 (ii) the retail tobacco specialty business does not close for business or otherwise
1582 suspend the sale of tobacco products, electronic cigarette products, or nicotine
1583 products for more than 60 consecutive days;

1584 (iii) the retail tobacco specialty business does not substantially change the business
1585 premises or business operation; and

1586 (iv) the retail tobacco specialty business maintains the right to operate under the
1587 terms of other applicable laws, including:

1588 (A) Section 26B-7-503;

1589 (B) zoning ordinances;

1590 (C) building codes; and

1591 (D) the requirements of the license described in Subsection (7)(a)(i).

1592 (c) A retail tobacco specialty business that does not qualify for an exemption under
1593 Subsection (7)(a) is exempt from Subsection (4) if:

1594 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
1595 general tobacco retailer permit or a retail tobacco specialty business permit under
1596 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
1597 Nicotine Products, by the local health department having jurisdiction over the area
1598 in which the retail tobacco specialty business is located;

1599 (ii) the retail tobacco specialty business is operating in the municipality in accordance
1600 with all applicable laws except for the requirement in Subsection (4); and

1601 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
1602 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
1603 high school.

1604 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
1605 maintain an exemption under Subsection (7)(c) if:

- 1606 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
- 1607 retail tobacco specialty business permit from the local health department having
- 1608 jurisdiction over the area in which the retail tobacco specialty business is located;
- 1609 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
- 1610 lapse or permanent revocation;
- 1611 (iii) the retail tobacco specialty business does not close for business or otherwise
- 1612 suspend the sale of tobacco products, electronic cigarette products, or nicotine
- 1613 products for more than 60 consecutive days;
- 1614 (iv) the retail tobacco specialty business does not substantially change the business
- 1615 premises or business operation as the business existed when the retail tobacco
- 1616 specialty business received a permit under Subsection (7)(d)(i); and
- 1617 (v) the retail tobacco specialty business maintains the right to operate under the terms
- 1618 of other applicable laws, including:
 - 1619 (A) Section 26B-7-503;
 - 1620 (B) zoning ordinances;
 - 1621 (C) building codes; and
 - 1622 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 1623 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
- 1624 located within 1,000 feet of a public or private kindergarten, elementary, middle,
- 1625 junior high, or high school before July 1, 2022, is exempt from Subsection
- 1626 (4)(a)(iii)(B) if the retail tobacco specialty business:
 - 1627 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
 - 1628 use and located within a group of architecturally unified commercial
 - 1629 establishments built on a site that is planned, developed, owned, and managed as
 - 1630 an operating unit; and
 - 1631 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
 - 1632 directly related to the relocation described in this Subsection (7)(e).

1633 Section 12. Section **10-8-47** is amended to read:

1634 **10-8-47 . Intoxication -- Fights -- Disorderly conduct -- Assault and battery --**
1635 **Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks --**
1636 **False pretenses and embezzlement -- Sale of liquor, narcotics, tobacco**

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1637 **products, electronic cigarette products, or nicotine products to minors --**

1638 **Possession of controlled substances -- Treatment of alcoholics and narcotics**

1639 **or drug addicts.**

1640 (1) A municipal legislative body may:

1641 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
1642 bullfights, and all disorderly conduct and provide against and punish the offenses of
1643 assault and battery and petit larceny;

1644 (b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street,
1645 house, or place in the city;

1646 (c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in
1647 accordance with Section 53-7-225, or any other dangerous or combustible material;

1648 (d) provide against and prevent the offense of obtaining money or property under false
1649 pretenses and the offense of embezzling money or property in the cases when the
1650 money or property embezzled or obtained under false pretenses does not exceed in
1651 value the sum of \$500;

1652 (e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to an
1653 individual younger than 21 years old; or

1654 (f) prohibit the sale, giving away, or furnishing of a tobacco product, an electronic
1655 cigarette product, or a nicotine product as those terms are defined in Section [
1656 ~~76-10-101~~] 76-9-1101 to an individual younger than 21 years old.

1657 (2) A city may:

1658 (a) by ordinance, prohibit the possession of controlled substances as defined in the Utah
1659 Controlled Substances Act or any other endangering or impairing substance, provided
1660 the conduct is not a class A misdemeanor or felony; and

1661 (b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are
1662 addicted to the use of drugs or intoxicants such that an individual substantially lacks
1663 the capacity to control the individual's use of the drugs or intoxicants, and judicial
1664 supervision may be imposed as a means of effecting the individual's rehabilitation.

1665 Section 13. Section **10-18-103** is amended to read:

1666 **10-18-103 . Antitrust immunity.**

1667 (1) When a municipality is offering or providing a cable television service or public

1668 telecommunications service, the immunity from antitrust liability afforded to political
1669 subdivisions of the state under Section ~~[76-10-3109]~~ 76-16-511 does not apply to the
1670 municipality providing those services.

1671 (2) A municipality that provides a cable television service or a public telecommunications
1672 service is subject to applicable antitrust liabilities under the federal Local Government
1673 Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

1674 Section 14. Section **11-46-303** is amended to read:

1675 **11-46-303 . Community cats.**

1676 (1) A cat received by a shelter under the provisions of Section 11-46-103 may be released
1677 prior to the five-day holding period to a sponsor that operates a community cat program.

1678 (2) A community cat is:

1679 (a) exempt from licensing requirements and feeding bans; and

1680 (b) eligible for release from an animal shelter prior to the mandatory five-day hold
1681 period in Section 11-46-103.

1682 (3) Community cat sponsors or caretakers do not have custody, as defined in Section [
1683 ~~76-9-304]~~ 76-13-202, of any cat in a community cat colony. Cats in a colony that are
1684 obviously owned, as evidenced by a collar, tags, microchip, or other discernable owner
1685 identification, are not exempt from the provisions of [~~Title 76, Chapter 9, Part 3, Cruelty~~
1686 ~~to Animals]~~ Title 76, Chapter 13, Offenses Involving Cruelty to Animals.

1687 (4) Sterilization and vaccination records shall be maintained for a minimum of three years
1688 and be available to an animal control officer upon request.

1689 Section 15. Section **11-48-104**, which is renumbered from Section 76-9-905 is renumbered
1690 and amended to read:

1691 **CHAPTER 48. EMERGENCY RESPONSE AND PREVENTION**

1692 ~~[76-9-905]~~ **11-48-104 . Designation of public places where orders to disperse are authorized**
1693 **and gang**

1693 **loitering is prohibited.**

1694 (1) As used in this section:

1695 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

1696 (b) "Gang loitering" means the same as that term is defined in Section 76-9-802.

1697 (c) "Public place" means the same as that term is defined in Section 76-9-802.

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1698 ~~[(1)] (2) [Municipal and county legislative bodies shall, within their respective jurisdictions,~~
1699 ~~designate the areas within their jurisdictions that] [they have determined are] A~~
1700 municipal or county legislative body shall designate public places within the municipal
1701 or county jurisdiction as areas where gang loitering is prohibited and subject to [the-]
1702 enforcement[~~of~~] by law enforcement officers as described in Section [76-9-903
1703 because] 53-25-602 and to criminal penalties under Section 76-9-805 if criminal street
1704 gangs have been able to, or are attempting to:

- 1705 (a) establish control over ~~[these identifiable]~~ the areas;
- 1706 (b) intimidate ~~[others]~~ other individuals from entering ~~[those]~~ the areas; or
- 1707 (c) conceal illegal activities conducted in ~~[those]~~ the areas.

1708 ~~[(2)] (3)(a) [Prior to designating areas subject to enforcement under Section 76-9-903,~~
1709 ~~the-] Before a legislative body designates a public place as an area where gang~~
1710 loitering is prohibited, the legislative body shall consult, as appropriate, with [persons]
1711 individuals who are knowledgeable about the effects of gang activity in [areas where
1712 Section 76-9-903 may be enforced] the area.

- 1713 (b) ~~[Persons-]~~ Individuals consulted under Subsection ~~[(2)(a)] (3)(a)~~ may include:
 - 1714 (i) members of local law enforcement agencies who have training or experience
 - 1715 related to criminal street gangs;
 - 1716 (ii) other agency personnel with particular knowledge of gang activities in the
 - 1717 proposed designated area;
 - 1718 (iii) elected and appointed officials of the area where the proposed designated area is
 - 1719 located; and
 - 1720 (iv) representatives of community-based organizations.

1721 ~~[(3)] (4) The municipal or county legislative body shall develop and implement procedures~~
1722 ~~for periodic review and update of area designations [it makes] made under Subsection [~~
1723 ~~(1)] (2).~~

1724 (5) This section does not affect or limit an individual's constitutional right to engage in
1725 collective advocacy activities that are protected by the constitution or laws of this state
1726 or by the constitution or laws of the United States.

1727 Section 16. Section **13-39-202** is amended to read:

1728 **13-39-202 . Prohibition of sending certain materials to a registered contact point**

1729 -- **Exception for consent.**

- 1730 (1) A person may not send, cause to be sent, or conspire with a third party to send a
1731 communication to a contact point or domain that has been registered for more than 30
1732 calendar days with the unit under Section 13-39-201 if the communication:
1733 (a) has the primary purpose of advertising or promoting a product or service that a minor
1734 is prohibited by law from purchasing; or
1735 (b) contains or has the primary purpose of advertising or promoting material that is
1736 harmful to minors, as defined in Section [~~76-10-1201~~] 76-5c-101.
- 1737 (2) Except as provided in Subsection (4), consent of a minor is not a defense to a violation
1738 of this section.
- 1739 (3) An Internet service provider does not violate this section for solely transmitting a
1740 message across the network of the Internet service provider.
- 1741 (4)(a) Notwithstanding Subsection (1), a person may send a communication to a contact
1742 point if, before sending the communication, the person sending the communication
1743 receives consent from an adult who controls the contact point.
- 1744 (b) Any person who proposes to send a communication under Subsection (4)(a) shall:
1745 (i) verify the age of the adult who controls the contact point by inspecting the adult's
1746 government-issued identification card in a face-to-face transaction;
1747 (ii) obtain a written record indicating the adult's consent that is signed by the adult;
1748 (iii) include in each communication:
1749 (A) a notice that the adult may rescind the consent; and
1750 (B) information that allows the adult to opt out of receiving future
1751 communications; and
1752 (iv) notify the unit that the person intends to send communications under this
1753 Subsection (4).
- 1754 (c) The unit shall implement rules to verify that a person providing notification under
1755 Subsection (4)(b)(iv) complies with this Subsection (4).

1756 Section 17. Section **13-40-102** is amended to read:

1757 **13-40-102 . Definitions.**

1758 As used in this chapter:

- 1759 (1)(a) "Cause to be copied" means to distribute or transfer computer software, or any

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- 1760 component of computer software.
- 1761 (b) "Cause to be copied" does not include providing:
- 1762 (i) transmission, routing, intermediate temporary storage, or caching of software;
- 1763 (ii) a storage or hosting medium, such as a compact disk, website, or computer server
- 1764 through which the software was distributed by a third party; or
- 1765 (iii) an information location tool, such as a directory, index, reference, pointer, or
- 1766 hypertext link, through which the user of the computer located the software.
- 1767 (2)(a) "Computer software" means a sequence of instructions written in any
- 1768 programming language that is executed on a computer.
- 1769 (b) "Computer software" does not include a data component of a webpage that is not
- 1770 executable independently of the webpage.
- 1771 (3) "Computer virus" means a computer program or other set of instructions that is designed
- 1772 to degrade the performance of or disable a computer or computer network and is
- 1773 designed to have the ability to replicate itself on another computer or computer network
- 1774 without the authorization of the owner of the other computer or computer network.
- 1775 (4) "Damage" means any significant impairment to the:
- 1776 (a) performance of a computer; or
- 1777 (b) integrity or availability of data, software, a system, or information.
- 1778 (5) "Execute," when used with respect to computer software, means the performance of the
- 1779 functions or the carrying out of the instructions of the computer software.
- 1780 (6) "False pretenses" means the representation of a fact or circumstance that is not true and
- 1781 is calculated to mislead.
- 1782 (7)(a) "Identifying information" means any information that can be used to access a
- 1783 person's financial accounts or to obtain goods and services, including the person's:
- 1784 (i) address;
- 1785 (ii) birth date;
- 1786 (iii) Social Security number;
- 1787 (iv) driver license number;
- 1788 (v) non-driver governmental identification number;
- 1789 (vi) telephone number;
- 1790 (vii) bank account number;

- 1791 (viii) student identification number;
- 1792 (ix) credit or debit card number;
- 1793 (x) personal identification number;
- 1794 (xi) unique biometric data;
- 1795 (xii) employee or payroll number;
- 1796 (xiii) automated or electronic signature;
- 1797 (xiv) computer image file;
- 1798 (xv) photograph; or
- 1799 (xvi) computer screen name or password.
- 1800 (b) "Identifying information" does not include information that is lawfully obtained from
- 1801 publicly available information, or from federal, state, or local government records
- 1802 lawfully made available to the general public.
- 1803 (8) "Intentionally deceptive" means any of the following:
- 1804 (a) an intentionally and materially false or fraudulent statement;
- 1805 (b) a statement or description that intentionally omits or misrepresents material
- 1806 information in order to deceive an owner or operator of a computer; or
- 1807 (c) an intentional and material failure to provide a notice to an owner or operator
- 1808 concerning the installation or execution of computer software, for the purpose of
- 1809 deceiving the owner or operator.
- 1810 (9) "Internet" means the global information system that is logically linked together by a
- 1811 globally unique address space based on the Internet protocol (IP), or its subsequent
- 1812 extensions, and that is able to support communications using the transmission control
- 1813 protocol/Internet protocol (TCP/IP) suite, or its subsequent extensions, or other
- 1814 IP-compatible protocols, and that provides, uses, or makes accessible, either publicly or
- 1815 privately, high-level services layered on communications and related infrastructure.
- 1816 (10) "Internet service provider" means:
- 1817 (a) an Internet service provider, as defined in Section ~~[76-10-1230]~~ 76-5c-401; or
- 1818 (b) a hosting company, as defined in Section ~~[76-10-1230]~~ 76-5c-401.
- 1819 (11) "Message" means a graphical or text communication presented to an authorized user of
- 1820 a computer.
- 1821 (12)(a) "Owner or operator" means the owner or lessee of a computer, or a person using

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- 1822 a computer with the owner's or lessee's authorization.
- 1823 (b) "Owner or operator" does not include a person who owned a computer before the
1824 first retail sale of the computer.
- 1825 (13) "Person" means any individual, partnership, corporation, limited liability company, or
1826 other organization, or any combination thereof.
- 1827 (14) "Personally identifiable information" means any of the following information if it
1828 allows the entity holding the information to identify the owner or operator of a computer:
- 1829 (a) the first name or first initial in combination with the last name and a home or other
1830 physical address including street name;
- 1831 (b) a personal identification code in conjunction with a password required to access an
1832 identified account, other than a password, personal identification number, or other
1833 identification number transmitted by an authorized user to the issuer of the account or
1834 its agent;
- 1835 (c) a Social Security number, tax identification number, driver license number, passport
1836 number, or any other government-issued identification number; or
- 1837 (d) an account balance, overdraft history, or payment history that personally identifies an
1838 owner or operator of a computer.
- 1839 (15) "Webpage" means a location that has a single uniform resource locator (URL) with
1840 respect to the World Wide Web or another location that can be accessed on the Internet.
- 1841 Section 18. Section **13-44-301** is amended to read:
- 1842 **13-44-301 . Enforcement -- Confidentiality agreement -- Penalties.**
- 1843 (1) The attorney general may enforce this chapter's provisions.
- 1844 (2)(a) Nothing in this chapter creates a private right of action.
- 1845 (b) Nothing in this chapter affects any private right of action existing under other law,
1846 including contract or tort.
- 1847 (3) A person who violates this chapter's provisions is subject to a civil penalty of:
- 1848 (a) no greater than \$2,500 for a violation or series of violations concerning a specific
1849 consumer; and
- 1850 (b) no greater than \$100,000 in the aggregate for related violations concerning more than
1851 one consumer, unless:
- 1852 (i) the violations concern:

- 1853 (A) 10,000 or more consumers who are residents of the state; and
1854 (B) 10,000 or more consumers who are residents of other states; or
1855 (ii) the person agrees to settle for a greater amount.
- 1856 (4)(a) In addition to the penalties provided in Subsection (3), the attorney general may
1857 seek, in an action brought under this chapter:
1858 (i) injunctive relief to prevent future violations of this chapter; and
1859 (ii) attorney fees and costs.
- 1860 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
1861 general brings an action under this chapter in the district court, the attorney general
1862 shall bring the action in:
1863 (i) Salt Lake City; or
1864 (ii) the county in which resides a consumer who is affected by the violation.
- 1865 (5) The attorney general shall deposit any amount received under Subsection (3), (4), or
1866 (10) into the Attorney General Litigation Fund created in Section ~~[76-10-3114]~~ 67-5-40.
- 1867 (6) In enforcing this chapter, the attorney general may:
1868 (a) investigate the actions of any person alleged to violate Section 13-44-201 or
1869 13-44-202;
1870 (b) subpoena a witness;
1871 (c) subpoena a document or other evidence;
1872 (d) require the production of books, papers, contracts, records, or other information
1873 relevant to an investigation;
1874 (e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative
1875 Procedures Act, to enforce a civil provision under this chapter; and
1876 (f) enter into a confidentiality agreement in accordance with Subsection (7).
- 1877 (7)(a) If the attorney general has reasonable cause to believe that an individual is in
1878 possession, custody, or control of information that is relevant to enforcing this
1879 chapter, the attorney general may enter into a confidentiality agreement with the
1880 individual.
1881 (b) In a civil action brought under this chapter, a court may issue a confidentiality order
1882 that incorporates the confidentiality agreement described in Subsection (7)(a).
1883 (c) A confidentiality agreement entered into under Subsection (7)(a) or a confidentiality

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- 1884 order issued under Subsection (7)(b) may:
- 1885 (i) address a procedure;
- 1886 (ii) address testimony taken, a document produced, or material produced under this
- 1887 section;
- 1888 (iii) provide whom may access testimony taken, a document produced, or material
- 1889 produced under this section;
- 1890 (iv) provide for safeguarding testimony taken, a document produced, or material
- 1891 produced under this section; or
- 1892 (v) require that the attorney general:
- 1893 (A) return a document or material to an individual; or
- 1894 (B) notwithstanding Section 63A-12-105 or a retention schedule created in
- 1895 accordance with Section 63G-2-604, destroy the document or material at a
- 1896 designated time.
- 1897 (8) A subpoena issued under Subsection (6) may be served by certified mail.
- 1898 (9) A person's failure to respond to a request or subpoena from the attorney general under
- 1899 Subsection (6)(b), (c), or (d) is a violation of this chapter.
- 1900 (10)(a) The attorney general may inspect and copy all records related to the business
- 1901 conducted by the person alleged to have violated this chapter, including records
- 1902 located outside the state.
- 1903 (b) For records located outside of the state, the person who is found to have violated this
- 1904 chapter shall pay the attorney general's expenses to inspect the records, including
- 1905 travel costs.
- 1906 (c) Upon notification from the attorney general of the attorney general's intent to inspect
- 1907 records located outside of the state, the person who is found to have violated this
- 1908 chapter shall pay the attorney general \$500, or a higher amount if \$500 is estimated
- 1909 to be insufficient, to cover the attorney general's expenses to inspect the records.
- 1910 (d) To the extent an amount paid to the attorney general by a person who is found to
- 1911 have violated this chapter is not expended by the attorney general, the amount shall
- 1912 be refunded to the person who is found to have violated this chapter.
- 1913 (e) The Division of Corporations and Commercial Code or any other relevant entity
- 1914 shall revoke any authorization to do business in this state of a person who fails to pay

- 1915 any amount required under this Subsection (10).
- 1916 (11)(a) Subject to Subsection (11)(c), the attorney general shall keep confidential a
1917 procedure agreed to, testimony taken, a document produced, or material produced
1918 under this section pursuant to a subpoena, confidentiality agreement, or
1919 confidentiality order, unless the individual who agreed to the procedure, provided
1920 testimony, produced the document, or produced material waives confidentiality in
1921 writing.
- 1922 (b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an
1923 enforcement action taken under this section, testimony taken, a document produced,
1924 or material produced under this section to the extent the use is not restricted or
1925 prohibited by a confidentiality agreement or a confidentiality order.
- 1926 (c) The attorney general may use, in an enforcement action taken under this section,
1927 testimony taken, a document produced, or material produced under this section that is
1928 restricted or prohibited from use by a confidentiality agreement or a confidentiality
1929 order if the individual who provided testimony or produced the document or material
1930 waives the restriction or prohibition in writing.
- 1931 (d) The attorney general may disclose testimony taken, a document produced, or
1932 material produced under this section, without consent of the individual who provided
1933 the testimony or produced the document or material, or the consent of an individual
1934 being investigated, to:
- 1935 (i) a grand jury; or
- 1936 (ii) a federal or state law enforcement officer, if the person from whom the
1937 information was obtained is notified 20 days or greater before the day on which
1938 the information is disclosed, and the federal or state law enforcement officer
1939 certifies that the federal or state law enforcement officer will:
- 1940 (A) maintain the confidentiality of the testimony, document, or material; and
- 1941 (B) use the testimony, document, or material solely for an official law
1942 enforcement purpose.
- 1943 (12)(a) An administrative action filed under this chapter shall be commenced no later
1944 than 10 years after the day on which the alleged breach of system security last
1945 occurred.

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1946 (b) A civil action under this chapter shall be commenced no later than five years after
1947 the day on which the alleged breach of system security last occurred.

1948 Section 19. Section **13-45-401** is amended to read:

1949 **13-45-401 . Enforcement -- Confidentiality agreement -- Penalties.**

1950 (1) The attorney general may enforce the provisions of this chapter.

1951 (2) A person who violates a provision of this chapter is subject to a civil fine of:

1952 (a) no greater than \$2,500 for a violation or series of violations concerning a specific
1953 consumer; and

1954 (b) no greater than \$100,000 in the aggregate for related violations concerning more than
1955 one consumer, unless:

1956 (i) the violations concern:

1957 (A) 10,000 or more consumers who are residents of the state; and

1958 (B) 10,000 or more consumers who are residents of other states; or

1959 (ii) the person agrees to settle for a greater amount.

1960 (3)(a) In addition to the penalties provided in Subsection (2), the attorney general may
1961 seek, in an action brought under this chapter:

1962 (i) injunctive relief to prevent future violations of this chapter; and

1963 (ii) attorney fees and costs.

1964 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
1965 general brings an action under this chapter in the district court, the attorney general
1966 shall bring the action in:

1967 (i) Salt Lake City; or

1968 (ii) the county in which resides a consumer who is the subject of a credit report on
1969 which a violation occurs.

1970 (4) The attorney general shall deposit any amount received under Subsection (2) or (3) into
1971 the Attorney General Litigation Fund created in Section ~~[76-10-3114]~~ 67-5-40.

1972 (5)(a) If the attorney general has reasonable cause to believe that an individual is in
1973 possession, custody, or control of information that is relevant to enforcing this
1974 chapter, the attorney general may enter into a confidentiality agreement with the
1975 individual.

1976 (b) In a civil action brought under this chapter, a court may issue a confidentiality order

- 1977 that incorporates the confidentiality agreement described in Subsection (5)(a).
- 1978 (c) A confidentiality agreement entered into under Subsection (5)(a) or a confidentiality
- 1979 order issued under Subsection (5)(b) may:
- 1980 (i) address a procedure;
- 1981 (ii) address testimony taken, a document produced, or material produced under this
- 1982 section;
- 1983 (iii) provide whom may access testimony taken, a document produced, or material
- 1984 produced under this section;
- 1985 (iv) provide for safeguarding testimony taken, a document produced, or material
- 1986 produced under this section; or
- 1987 (v) require that the attorney general:
- 1988 (A) return a document or material to an individual; or
- 1989 (B) notwithstanding Section 63A-12-105 or a retention schedule created in
- 1990 accordance with Section 63G-2-604, destroy the document or material at a
- 1991 designated time.
- 1992 (6)(a) Subject to Subsection (6)(c), the attorney general shall keep confidential a
- 1993 procedure agreed to, testimony taken, a document produced, or material produced
- 1994 under this section pursuant to a subpoena, confidentiality agreement, or
- 1995 confidentiality order, unless the individual who agreed to the procedure, provided
- 1996 testimony, or produced the document or material waives confidentiality in writing.
- 1997 (b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an
- 1998 enforcement action taken under this section, testimony taken, a document produced,
- 1999 or material produced under this section to the extent the use is not restricted or
- 2000 prohibited by a confidentiality agreement or a confidentiality order.
- 2001 (c) The attorney general may use, in an enforcement action taken under this section,
- 2002 testimony taken, a document produced, or material produced under this section that is
- 2003 restricted or prohibited from use by a confidentiality agreement or a confidentiality
- 2004 order if the individual who provided testimony, produced the document, or produced
- 2005 the material waives the restriction or prohibition in writing.
- 2006 (d) The attorney general may disclose testimony taken, a document produced, or
- 2007 material produced under this section, without consent of the individual who provided

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2008 the testimony, produced the document, or produced the material, or without the
2009 consent of an individual being investigated, to:

2010 (i) a grand jury; or

2011 (ii) a federal or state law enforcement officer, if the person from whom the
2012 information was obtained is notified 20 days or greater before the day on which
2013 the information is disclosed, and the federal or state law enforcement officer
2014 certifies that the federal or state law enforcement officer will:

2015 (A) maintain the confidentiality of the testimony, document, or material; and

2016 (B) use the testimony, document, or material solely for an official law
2017 enforcement purpose.

2018 (7) A civil action filed under this chapter shall be commenced no later than five years after
2019 the day on which the alleged violation last occurred.

2020 Section 20. Section **13-74-101** is amended to read:

2021 **13-74-101 . Definitions.**

2022 (1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant
2023 powder designed for use in a firearm.

2024 (2) "Customer" means an individual who presents a payment card to a merchant for the
2025 purchase of a good or service.

2026 (3) "Financial entity" means any person involved in facilitating or processing a payment
2027 card transaction, including:

2028 (a) a payment card network;

2029 (b) a merchant acquirer; or

2030 (c) a payment facilitator.

2031 (4) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.

2032 (5)(a) "Firearm accessory or component" means a device specifically adapted to:

2033 (i) enable the wearing or carrying about one's person or the storage or mounting in or
2034 on any conveyance of a firearm; or

2035 (ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning
2036 or capabilities of the firearm.

2037 (b) "Firearm accessory or component" includes a telescopic or laser sight, magazine,
2038 flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace,

- 2039 ammunition carrier, or light for target illumination.
- 2040 (6) "Firearms code" means the merchant category code 5723, approved in September 2022
2041 by the International Organization for Standardization, for firearms retailers.
- 2042 (7) "Firearms retailer" means a merchant engaged in the lawful business of selling or
2043 trading firearms, firearm accessories or components, or ammunition.
- 2044 (8) "Merchant" means a person physically located in the state who accepts a payment card
2045 from a customer for the purchase of a good or service.
- 2046 (9) "Payment card" means a card, code, or other means by which a person may debit a
2047 deposit account or use a line of credit to purchase a good or service.
- 2048 (10) "Reloading supplies" means any equipment, component, or material designed for the
2049 reloading of ammunition, including reloading presses, shell holders, powder measures,
2050 priming tools, reloading manuals, casings, and gunpowder.

2051 Section 21. Section **16-6a-1414** is amended to read:

2052 **16-6a-1414 . Grounds and procedure for judicial dissolution.**

- 2053 (1) The attorney general or the division director may bring an action in a court with
2054 jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a
2055 nonprofit corporation if it is established that:
- 2056 (a) the nonprofit corporation obtained the nonprofit corporation's articles of
2057 incorporation through fraud; or
- 2058 (b) the nonprofit corporation has continued to exceed or abuse the authority conferred
2059 upon the nonprofit corporation by law.
- 2060 (2) A member or director of a nonprofit corporation may bring an action in a court with
2061 jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the
2062 nonprofit corporation if it is established that:
- 2063 (a)(i) the directors are deadlocked in the management of the corporate affairs;
2064 (ii) the members, if any, are unable to break the deadlock; and
2065 (iii) irreparable injury to the nonprofit corporation is threatened or being suffered;
- 2066 (b) the directors or those in control of the nonprofit corporation have acted, are acting, or
2067 will act in a manner that is illegal, oppressive, or fraudulent;
- 2068 (c) the members are deadlocked in voting power and have failed, for a period that
2069 includes at least two consecutive annual meeting dates, to elect successors to

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2070 directors whose terms have expired or would have expired upon the election of their
2071 successors; or

2072 (d) the corporate assets are being misapplied or wasted.

2073 (3) A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary
2074 and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

2075 (a)(i) the creditor's claim has been reduced to judgment;

2076 (ii) the execution on the judgment has been returned unsatisfied; and

2077 (iii) the nonprofit corporation is insolvent; or

2078 (b)(i) the nonprofit corporation is insolvent; and

2079 (ii) the nonprofit corporation has admitted in writing that the creditor's claim is due
2080 and owing.

2081 (4)(a) As used in this Subsection (4):

2082 (i) "Misconduct claim" means:

2083 (A) a claim for wrongful death, fraud, breach of public trust, or an intentional tort;
2084 or

2085 (B) a claim regarding criminal conduct by a director, member, or employee of the
2086 nonprofit corporation that is a felony offense or an offense described in:

2087 (I) Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section

2088 76-5-417, 76-5-418, 76-5-419, or 76-5-420;

2089 (II) [~~76-5-419~~] Title 76, Chapter 5b, Sexual Exploitation Act[~~76-5-419~~]; or

2090 (III) Section 76-7-102, [Section 76-9-702] 76-5-419, or [Section 76-9-702.1]

2091 76-5-418.

2092 (ii) "Nonprofit corporation" does not include a bona fide church or religious
2093 organization.

2094 (b) If a person brings a misconduct claim in an action against a nonprofit corporation,
2095 the person may also bring an action to dissolve the nonprofit corporation.

2096 (c) If a person brings a dissolution action under Subsection (4)(b), the court may only
2097 dissolve the nonprofit corporation if the court finds the nonprofit corporation is liable
2098 for the misconduct claim.

2099 (d) Upon a motion by the plaintiff in a dissolution action described in Subsection (4)(b),
2100 the court may:

2101 (i) issue an injunction preventing the nonprofit corporation from selling or disposing
2102 of any assets held by the nonprofit corporation; and

2103 (ii) require the nonprofit corporation to deposit funds, or post a bond, with the court
2104 for the amount of damages pleaded in the complaint.

2105 (e) The court may void a transaction that is made by the nonprofit corporation within 12
2106 months before the day on which the action was filed with the court if the court finds
2107 that the transaction is voidable under Section 25-6-202.

2108 (5) If an action is brought under this section, it is not necessary to make directors or
2109 members parties to the action to dissolve the nonprofit corporation unless relief is sought
2110 against the members individually.

2111 (6) In an action under this section, the court may:

2112 (a) issue injunctions;

2113 (b) appoint a receiver or a custodian pendente lite with all powers and duties the court
2114 directs; or

2115 (c) take other action required to preserve the nonprofit corporation's assets wherever
2116 located and carry on the business of the nonprofit corporation until a full hearing can
2117 be held.

2118 (7) If a nonprofit corporation has been dissolved by voluntary or another action taken under
2119 this part:

2120 (a) the nonprofit corporation may bring a proceeding to wind up and liquidate its
2121 business and affairs under judicial supervision in accordance with Section 16-6a-1405;
2122 and

2123 (b) the attorney general, a director, a member, a creditor, or a plaintiff under Subsection
2124 (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit
2125 corporation under judicial supervision in accordance with Section 16-6a-1405, upon
2126 establishing the grounds set forth in Subsections (1) through (4).

2127 Section 22. Section **17-41-403** is amended to read:

2128 **17-41-403 . Nuisances.**

2129 (1) A political subdivision shall ensure that any of the political subdivision's laws or
2130 ordinances that define or prohibit a public nuisance exclude from the definition or
2131 prohibition:

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- 2132 (a) for an agriculture protection area, any agricultural activity or operation within an
2133 agriculture protection area conducted using sound agricultural practices unless that
2134 activity or operation bears a direct relationship to public health or safety;
- 2135 (b) for an industrial protection area, any industrial use of the land within the industrial
2136 protection area that is consistent with sound practices applicable to the industrial use,
2137 unless that use bears a direct relationship to public health or safety; or
- 2138 (c) for a critical infrastructure materials protection area, any critical infrastructure
2139 materials operations on the land within the critical infrastructure materials protection
2140 area that is consistent with sound practices applicable to the critical infrastructure
2141 materials operations, unless that use bears a direct relationship to public health or
2142 safety.
- 2143 (2) In a civil action for nuisance or a criminal action for public nuisance under Section [
2144 ~~76-10-803~~] 76-9-1301, it is a complete defense if the action involves agricultural
2145 activities and:
- 2146 (a) those agricultural activities were:
- 2147 (i) conducted within an agriculture protection area; and
2148 (ii) not in violation of any federal, state, or local law or regulation relating to the
2149 alleged nuisance or were conducted according to sound agricultural practices; or
- 2150 (b) a defense under Section 4-44-201 applies.
- 2151 (3)(a) A vested mining use undertaken in conformity with applicable federal and state
2152 law and regulations is presumed to be operating within sound mining practices.
- 2153 (b) A vested mining use that is consistent with sound mining practices:
- 2154 (i) is presumed to be reasonable; and
2155 (ii) may not constitute a private or public nuisance under Section [~~76-10-803~~]
2156 76-9-1301.
- 2157 (c) A vested mining use in operation for more than three years may not be considered to
2158 have become a private or public nuisance because of a subsequent change in the
2159 condition of land within the vicinity of the vested mining use.
- 2160 (4)(a) For any new subdivision development located in whole or in part within 300 feet of the
2161 boundary of an agriculture protection area, the owner of the development shall provide notice
2162 on any plat filed with the county recorder the following notice:

2163

"Agriculture Protection Area

2164 This property is located in the vicinity of an established agriculture protection area in which
2165 normal agricultural uses and activities have been afforded the highest priority use status. It can
2166 be anticipated that such agricultural uses and activities may now or in the future be conducted
2167 on property included in the agriculture protection area. The use and enjoyment of this property
2168 is expressly conditioned on acceptance of any annoyance or inconvenience which may result
2169 from such normal agricultural uses and activities."

2170 (b) For any new subdivision development located in whole or in part within 1,000 feet of the
2171 boundary of an industrial protection area, the owner of the development shall provide notice
2172 on any plat filed with the county recorder the following notice:
2173

"Industrial Protection Area

2174 This property is located in the vicinity of an established industrial protection area in which
2175 normal industrial uses and activities have been afforded the highest priority use status. It can
2176 be anticipated that such industrial uses and activities may now or in the future be conducted on
2177 property included in the industrial protection area. The use and enjoyment of this property is
2178 expressly conditioned on acceptance of any annoyance or inconvenience which may result
2179 from such normal industrial uses and activities."

2180 (c) For any new subdivision development located in whole or in part within 1,000 feet of the
2181 boundary of a critical infrastructure materials protection area, the owner of the development
2182 shall provide notice on any plat filed with the county recorder the following notice:
2183

"Critical Infrastructure Materials Protection Area

2184 This property is located in the vicinity of an established critical infrastructure materials
2185 protection area in which critical infrastructure materials operations have been afforded the
2186 highest priority use status. It can be anticipated that such operations may now or in the future
2187 be conducted on property included in the critical infrastructure materials protection area. The
2188 use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or
2189 inconvenience which may result from such normal critical infrastructure materials operations."

2190 (d) For any new subdivision development located in whole or in part within 1,000 feet of the

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2191 boundary of a mining protection area, the owner of the development shall provide notice on
2192 any plat filed with the county recorder the following notice:

2193 "This property is located within the vicinity of an established mining protection area in
2194 which normal mining uses and activities have been afforded the highest priority use status. It
2195 can be anticipated that the mining uses and activities may now or in the future be conducted on
2196 property included in the mining protection area. The use and enjoyment of this property is
2197 expressly conditioned on acceptance of any annoyance or inconvenience that may result from
2198 the normal mining uses and activities."

2199 Section 23. Section **17-50-333** is amended to read:

2200 **17-50-333 . Regulation of retail tobacco specialty business.**

2201 (1) As used in this section:

2202 (a) "Community location" means:

2203 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

2204 (ii) a licensed child-care facility or preschool;

2205 (iii) a trade or technical school;

2206 (iv) a church;

2207 (v) a public library;

2208 (vi) a public playground;

2209 (vii) a public park;

2210 (viii) a youth center or other space used primarily for youth oriented activities;

2211 (ix) a public recreational facility;

2212 (x) a public arcade; or

2213 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

2214 (b) "Department" means the Department of Health and Human Services created in

2215 Section 26B-1-201.

2216 (c) "Electronic cigarette product" means the same as that term is defined in Section [

2217 ~~76-10-101~~ 76-9-1101.

2218 (d) "Licensee" means a person licensed under this section to conduct business as a retail

2219 tobacco specialty business.

2220 (e) "Local health department" means the same as that term is defined in Section

2221 26A-1-102.

- 2222 (f) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~
2223 76-9-1101.
- 2224 (g) "Retail tobacco specialty business" means a commercial establishment in which:
2225 (i) sales of tobacco products, electronic cigarette products, and nicotine products
2226 account for more than 35% of the total quarterly gross receipts for the
2227 establishment;
2228 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
2229 storage of tobacco products, electronic cigarette products, or nicotine products;
2230 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage
2231 of tobacco products, electronic cigarette products, or nicotine products;
2232 (iv) the commercial establishment:
2233 (A) holds itself out as a retail tobacco specialty business; and
2234 (B) causes a reasonable person to believe the commercial establishment is a retail
2235 tobacco specialty business; or
2236 (v) the retail space features a self-service display for tobacco products, electronic
2237 cigarette products, or nicotine products.
- 2238 (h) "Self-service display" means the same as that term is defined in Section [~~76-10-105.1~~
2239 76-9-1107.
- 2240 (i) "Tobacco product" means:
2241 (i) the same as that term is defined in Section [~~76-10-101~~] 76-9-1101; or
2242 (ii) tobacco paraphernalia as defined in Section [~~76-10-101~~] 76-9-1101.
- 2243 (2) The regulation of a retail tobacco specialty business is an exercise of the police powers
2244 of the state by the state or by the delegation of the state's police power to other
2245 governmental entities.
- 2246 (3)(a) A person may not operate a retail tobacco specialty business in a county unless
2247 the person obtains a license from the county in which the retail tobacco specialty
2248 business is located.
- 2249 (b) A county may only issue a retail tobacco specialty business license to a person if the
2250 person complies with the provisions of Subsections (4) and (5).
- 2251 (4)(a) Except as provided in Subsection (7), a county may not issue a license for a
2252 person to conduct business as a retail tobacco specialty business if the retail tobacco

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- 2253 specialty business is located within:
- 2254 (i) 1,000 feet of a community location;
- 2255 (ii) 600 feet of another retail tobacco specialty business; or
- 2256 (iii) 600 feet from property used or zoned for:
- 2257 (A) agriculture use; or
- 2258 (B) residential use.
- 2259 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
- 2260 straight line from the nearest entrance of the retail tobacco specialty business to the
- 2261 nearest property boundary of a location described in Subsections (4)(a)(i) through
- 2262 (iii), without regard to intervening structures or zoning districts.
- 2263 (5) A county may not issue or renew a license for a person to conduct business as a retail
- 2264 tobacco specialty business until the person provides the county with proof that the retail
- 2265 tobacco specialty business has:
- 2266 (a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter
- 2267 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
- 2268 local health department having jurisdiction over the area in which the retail tobacco
- 2269 specialty business is located; and
- 2270 (b)(i) for a retailer that sells a tobacco product, a valid license issued by the State
- 2271 Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a
- 2272 tobacco product; or
- 2273 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
- 2274 license issued by the State Tax Commission in accordance with Section 59-14-803
- 2275 to sell an electronic cigarette product or a nicotine product.
- 2276 (6)(a) Nothing in this section:
- 2277 (i) requires a county to issue a retail tobacco specialty business license; or
- 2278 (ii) prohibits a county from adopting more restrictive requirements on a person
- 2279 seeking a license or renewal of a license to conduct business as a retail tobacco
- 2280 specialty business.
- 2281 (b) A county may suspend or revoke a retail tobacco specialty business license issued
- 2282 under this section:
- 2283 (i) if a licensee engages in a pattern of unlawful activity under [~~Title 76, Chapter 10,~~

- 2284 ~~Part 16, Pattern of Unlawful Activity Act]~~ Title 76, Chapter 17, Part 4, Offenses
2285 Concerning a Pattern of Unlawful Activity;
- 2286 (ii) if a licensee violates federal law or federal regulations restricting the sale and
2287 distribution of tobacco products or electronic cigarette products to protect children
2288 and adolescents;
 - 2289 (iii) upon the recommendation of the department or a local health department under
2290 Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and
2291 Nicotine Products; or
 - 2292 (iv) under any other provision of state law or local ordinance.
- 2293 (7)(a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
2294 exempt from Subsection (4) if:
- 2295 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
2296 license to conduct business as a retail tobacco specialty business;
 - 2297 (ii) the retail tobacco specialty business is operating in a county in accordance with
2298 all applicable laws except for the requirement in Subsection (4); and
 - 2299 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
2300 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
2301 high school.
- 2302 (b) A retail tobacco specialty business may maintain an exemption under Subsection
2303 (7)(a) if:
- 2304 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
2305 or permanent revocation;
 - 2306 (ii) the retail tobacco specialty business does not close for business or otherwise
2307 suspend the sale of tobacco products, electronic cigarette products, or nicotine
2308 products for more than 60 consecutive days;
 - 2309 (iii) the retail tobacco specialty business does not substantially change the business
2310 premises or business operation; and
 - 2311 (iv) the retail tobacco specialty business maintains the right to operate under the
2312 terms of other applicable laws, including:
 - 2313 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
 - 2314 (B) zoning ordinances;

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- 2315 (C) building codes; and
- 2316 (D) the requirements of the license described in Subsection (7)(a)(i).
- 2317 (c) A retail tobacco specialty business that does not qualify for an exemption under
- 2318 Subsection (7)(a) is exempt from Subsection (4) if:
- 2319 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
- 2320 general tobacco retailer permit or a retail tobacco specialty business permit under
- 2321 Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail
- 2322 Permit, by the local health department having jurisdiction over the area in which
- 2323 the retail tobacco specialty business is located;
- 2324 (ii) the retail tobacco specialty business is operating in the county in accordance with
- 2325 all applicable laws except for the requirement in Subsection (4); and
- 2326 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
- 2327 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or
- 2328 high school.
- 2329 (d) A retail tobacco specialty business may maintain an exemption under Subsection
- 2330 (7)(c) if:
- 2331 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
- 2332 retail tobacco specialty business permit from the local health department having
- 2333 jurisdiction over the area in which the retail tobacco specialty business is located;
- 2334 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without
- 2335 lapse or permanent revocation;
- 2336 (iii) the retail tobacco specialty business does not close for business or otherwise
- 2337 suspend the sale of tobacco products, electronic cigarette products, or nicotine
- 2338 products for more than 60 consecutive days;
- 2339 (iv) the retail tobacco specialty business does not substantially change the business
- 2340 premises or business operation as the business existed when the retail tobacco
- 2341 specialty business received a permit under Subsection (7)(d)(i); and
- 2342 (v) the retail tobacco specialty business maintains the right to operate under the terms
- 2343 of other applicable laws, including:
- 2344 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 2345 (B) zoning ordinances;

- 2346 (C) building codes; and
- 2347 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).
- 2348 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
- 2349 located within 1,000 feet of a public or private kindergarten, elementary, middle,
- 2350 junior high, or high school before July 1, 2022, is exempt from Subsection
- 2351 (4)(a)(iii)(B) if the retail tobacco specialty business:
- 2352 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial
- 2353 use and located within a group of architecturally unified commercial
- 2354 establishments built on a site that is planned, developed, owned, and managed as
- 2355 an operating unit; and
- 2356 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
- 2357 directly related to the relocation described in this Subsection (7)(e).

2358 Section 24. Section **19-2-114** is amended to read:

2359 **19-2-114 . Activities not in violation of chapter or rules.**

- 2360 (1) As used in this section, "attainment area" means an area that meets the national primary
- 2361 and secondary ambient air quality standard for pollution.
- 2362 (2) The following are not a violation of this chapter or of a rule made under this chapter:
- 2363 (a) burning incident to horticultural or agricultural operations of:
- 2364 (i) prunings from trees, bushes, and plants; or
- 2365 (ii) dead or diseased trees, bushes, and plants, including stubble;
- 2366 (b) burning of weed growth along ditch banks incident to clearing these ditches for
- 2367 irrigation purposes;
- 2368 (c) controlled heating of orchards or other crops to lessen the chances of their being
- 2369 frozen so long as the emissions from this heating do not violate minimum standards
- 2370 set by the board; and
- 2371 (d) the controlled burning of not more than two structures per year by an organized and
- 2372 operating fire department for the purpose of training fire service personnel when the
- 2373 United States Weather Service clearing index for the area where the burn is to occur
- 2374 is above 500.
- 2375 (3)(a) The board or division may not prohibit a burn during the time period beginning
- 2376 November 1 and ending March 31 if the burn:

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- 2377 (i) occurs in an attainment area;
- 2378 (ii) occurs on private property within an incorporated portion of a county;
- 2379 (iii) occurs when the United States Weather Service clearing index for the area in
- 2380 which the burn is to occur is above 250;
- 2381 (iv) is the open burning of clippings, bushes, plants, prunings from trees, or dead or
- 2382 diseased trees, bushes, and plants, that are:
- 2383 (A) incident to property and residential clean-up activities; and
- 2384 (B) thoroughly dry;
- 2385 (v) does not include trash, rubbish, tires, or oil in the material to be burned, used to
- 2386 start the burn, or used to keep a fire burning; and
- 2387 (vi) does not create a nuisance as defined in Section ~~[76-10-803]~~ 76-9-1301.
- 2388 (b) Notwithstanding Subsection (3)(a), the board by rule, made in accordance with Title
- 2389 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish the process for
- 2390 issuing a burn permit under this chapter.

2391 Section 25. Section **19-6-429** is amended to read:

2392 **19-6-429 . False information and claims.**

- 2393 (1) Any person who presents or causes to be presented any oral or written statement,
- 2394 knowing the statement contains false information, in order to obtain a certificate of
- 2395 compliance is guilty of a class B misdemeanor.
- 2396 (2)(a) Any person who presents or causes to be presented any claim for payment from
- 2397 the fund, knowing the claim contains materially false information or knowing the
- 2398 claim is not eligible for payment from the fund, is subject to the criminal penalties
- 2399 under Section ~~[76-10-1801]~~ 76-6-525 regarding fraud.
- 2400 (b) The level of criminal penalty shall be determined by the value involved, in the same
- 2401 manner as in Section ~~[76-10-1801]~~ 76-6-525.

2402 Section 26. Section **23A-4-1106** is amended to read:

2403 **23A-4-1106 . Suspension of license or permit privileges -- Suspension of**

2404 **certificates of registration.**

2405 (1) As used in this section:

- 2406 (a) "License or permit privileges" means the privilege of applying for, purchasing, and
- 2407 exercising the benefits conferred by a license or permit issued by the division.

- 2408 (b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.
- 2409 (2) A hearing officer, appointed by the division, may suspend a person's license or permit
2410 privileges if:
- 2411 (a) in a court of law, the person:
- 2412 (i) is convicted of:
- 2413 (A) violating this title or a rule of the Wildlife Board;
- 2414 (B) killing or injuring domestic livestock or a livestock guardian dog while
2415 engaged in an activity regulated under this title;
- 2416 (C) violating Section 76-6-111; or
- 2417 (D) violating Section [~~76-10-508~~] 76-11-207 while engaged in an activity
2418 regulated under this title;
- 2419 (ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no
2420 contest to an offense listed in Subsection (2)(a)(i), and the plea is held in
2421 abeyance; or
- 2422 (iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the
2423 person enters into a diversion agreement which suspends the prosecution of the
2424 offense; and
- 2425 (b) the hearing officer determines the person committed the offense intentionally,
2426 knowingly, or recklessly, as defined in Section 76-2-103.
- 2427 (3)(a) The Wildlife Board shall make rules establishing guidelines that a hearing officer
2428 shall consider in determining:
- 2429 (i) the type of license or permit privileges to suspend; and
- 2430 (ii) the duration of the suspension.
- 2431 (b) The Wildlife Board shall ensure that the guidelines established under Subsection
2432 (3)(a) are consistent with Subsections (4), (5), and (6).
- 2433 (4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's
2434 license or permit privileges according to Subsection (2) for a period of time not to
2435 exceed:
- 2436 (a) seven years for:
- 2437 (i) a felony conviction;
- 2438 (ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is

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- 2439 held in abeyance pursuant to a plea in abeyance agreement; or
2440 (iii) being charged with an offense punishable as a felony, the prosecution of which is
2441 suspended pursuant to a diversion agreement;
- 2442 (b) five years for:
- 2443 (i) a class A misdemeanor conviction;
- 2444 (ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor,
2445 which plea is held in abeyance pursuant to a plea in abeyance agreement; or
- 2446 (iii) being charged with an offense punishable as a class A misdemeanor, the
2447 prosecution of which is suspended pursuant to a diversion agreement;
- 2448 (c) three years for:
- 2449 (i) a class B misdemeanor conviction;
- 2450 (ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor
2451 when the plea is held in abeyance according to a plea in abeyance agreement; or
- 2452 (iii) being charged with an offense punishable as a class B misdemeanor, the
2453 prosecution of which is suspended pursuant to a diversion agreement; and
- 2454 (d) one year for:
- 2455 (i) a class C misdemeanor conviction;
- 2456 (ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor,
2457 when the plea is held in abeyance according to a plea in abeyance agreement; or
- 2458 (iii) being charged with an offense punishable as a class C misdemeanor, the
2459 prosecution of which is suspended according to a diversion agreement.
- 2460 (5) The hearing officer may double a suspension period established in Subsection (4) for
2461 offenses:
- 2462 (a) committed in violation of an existing suspension or revocation order issued by the
2463 courts, division, or Wildlife Board; or
- 2464 (b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.
- 2465 (6)(a) A hearing officer may suspend, according to Subsection (2), a person's license or
2466 permit privileges for a particular license or permit only once for each single criminal
2467 episode, as defined in Section 76-1-401.
- 2468 (b) If a hearing officer addresses two or more single criminal episodes in a hearing, the
2469 suspension periods of license or permit privileges of the same type suspended,

2470 according to Subsection (2), may run consecutively.

2471 (c) If a hearing officer suspends, according to Subsection (2), license or permit
2472 privileges of the type that have been previously suspended by a court, a hearing
2473 officer, or the Wildlife Board and the suspension period has not expired, the
2474 suspension periods may run consecutively.

2475 (7)(a) A hearing officer, appointed by the division, may suspend a person's privilege of
2476 applying for, purchasing, and exercising the benefits conferred by a certificate of
2477 registration if:

2478 (i) the hearing officer determines the person intentionally, knowingly, or recklessly,
2479 as defined in Section 76-2-103, violated:

2480 (A) this title;

2481 (B) a rule or order of the Wildlife Board;

2482 (C) the terms of a certificate of registration; or

2483 (D) the terms of a certificate of registration application or agreement; or

2484 (ii) the person, in a court of law:

2485 (A) is convicted of an offense that the hearing officer determines bears a
2486 reasonable relationship to the person's ability to safely and responsibly perform
2487 the activities authorized by the certificate of registration;

2488 (B) pleads guilty or no contest to an offense that the hearing officer determines
2489 bears a reasonable relationship to the person's ability to safely and responsibly
2490 perform the activities authorized by the certificate of registration, and the plea
2491 is held in abeyance in accordance with a plea in abeyance agreement; or

2492 (C) is charged with an offense that the hearing officer determines bears a
2493 reasonable relationship to the person's ability to safely and responsibly perform
2494 the activities authorized by the certificate of registration, and prosecution of the
2495 offense is suspended in accordance with a diversion agreement.

2496 (b) A hearing officer shall suspend a certificate of registration for the harvesting of brine
2497 shrimp eggs, as defined in Section 59-23-3, if the hearing officer determines the
2498 holder of the certificate of registration has violated Section 59-23-5.

2499 (8)(a) The director shall appoint a qualified person as a hearing officer to perform the
2500 adjudicative functions provided in this section.

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- 2501 (b) The director may not appoint a division employee who investigates or enforces
2502 wildlife violations.
- 2503 (9)(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for,
2504 purchase, or exercise the benefits conferred by a license, permit, or certificate of
2505 registration.
- 2506 (b) The courts shall promptly notify the division of suspension orders or
2507 recommendations entered.
- 2508 (c) The division, upon receiving notification of suspension from the courts, shall prohibit
2509 the person from applying for, purchasing, or exercising the benefits conferred by a
2510 license, permit, or certification of registration for the duration and of the type
2511 specified in the court order.
- 2512 (d) The hearing officer shall consider a recommendation made by a sentencing court
2513 concerning suspension before issuing a suspension order.
- 2514 (10) Before suspension under this section, the division shall give a person:
- 2515 (a) written notice of action the division intends to take; and
2516 (b) an opportunity for a hearing.
- 2517 (11)(a) A person may file an appeal of a hearing officer's decision with the Wildlife
2518 Board.
- 2519 (b) The Wildlife Board shall review the hearing officer's findings and conclusions and
2520 any written documentation submitted at the hearing.
- 2521 (c) The Wildlife Board may:
- 2522 (i) take no action;
2523 (ii) vacate or remand the decision; or
2524 (iii) amend the period or type of suspension.
- 2525 (12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry
2526 privileges consistent with Chapter 2, Part 5, Wildlife Violator Compact.
- 2527 (13) Within 30 days after the day on which an individual's privilege to hunt or fish is
2528 suspended under this title, the division shall report to the Division of Professional
2529 Licensing the:
- 2530 (a) identifying information for the individual; and
2531 (b) time period of the suspension.

2532 (14) The Wildlife Board may make rules to implement this section in accordance with Title
2533 63G, Chapter 3, Utah Administrative Rulemaking Act.

2534 Section 27. Section **23A-13-303** is amended to read:

2535 **23A-13-303 . Nuisances.**

2536 (1)(a) A county shall exclude the activities described in Subsection (1)(b) from the
2537 definition of public nuisance in a county law or ordinance regulating a public
2538 nuisance.

2539 (b) An activity or occurrence normally associated with a migratory bird production area
2540 is not a nuisance, including:

2541 (i) hunting;

2542 (ii) discharging a firearm;

2543 (iii) improving habitat;

2544 (iv) trapping;

2545 (v) eradicating weeds;

2546 (vi) discing;

2547 (vii) planting;

2548 (viii) impounding water;

2549 (ix) raising a bird or other domestic animal;

2550 (x) grazing;

2551 (xi) an activity conducted in the normal course of an agricultural operation as defined
2552 in Section 4-44-102; and

2553 (xii) an odor.

2554 (2) In a civil action for nuisance or a criminal action for public nuisance under Section [
2555 ~~76-10-803~~] 76-9-1301, it is a complete defense if the action is:

2556 (a) normally associated with a migratory bird production area;

2557 (b) conducted within a migratory bird production area; and

2558 (c) not in violation of federal or state law.

2559 (3) An owner of a new development located in whole or in part within 1,000 feet of a
2560 migratory bird production area shall provide the following notice on a plat filed with the
2561 county recorder:

2562

"Migratory Bird Production Area

2563 This property is located in the vicinity of an established migratory bird production area in
2564 which hunting and activities related to the management and operation of land for the benefit of
2565 migratory birds have been afforded the highest priority use status. It can be anticipated that
2566 these uses and activities may now or in the future be conducted on land within the migratory
2567 bird production area. The use and enjoyment of this property is expressly conditioned on
2568 acceptance of any annoyance or inconvenience that may result from activities normally
2569 associated with a migratory bird production area."

2570 Section 28. Section **26B-2-120** is amended to read:

2571 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

2572 (1) As used in this section:

2573 (a)(i) "Applicant" means an individual who is associated with a certification,
2574 contract, or licensee with the department under this part and has direct access,
2575 including:

2576 (A) an adoptive parent or prospective adoptive parent, including an applicant for
2577 an adoption in accordance with Section 78B-6-128;

2578 (B) a foster parent or prospective foster parent;

2579 (C) an individual who provides respite care to a foster parent or an adoptive parent
2580 on more than one occasion;

2581 (D) an individual who transports a child for a youth transportation company;

2582 (E) an individual who provides certified peer support, as defined in Section
2583 26B-5-610;

2584 (F) an individual who provides peer supports, has a disability or a family member
2585 with a disability, or is in recovery from a mental illness or a substance use
2586 disorder;

2587 (G) an individual who has lived experience with the services provided by the
2588 department, and uses that lived experience to provide support, guidance, or
2589 services to promote resiliency and recovery;

2590 (H) an individual who is identified as a mental health professional, licensed under
2591 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in
2592 the practice of mental health therapy, as defined in Section 58-60-102;

- 2593 (I) an individual, other than the child or vulnerable adult receiving the service,
2594 who is 12 years old or older and resides in a home, that is licensed or certified
2595 by the division;
- 2596 (J) an individual who is 12 years old or older and is associated with a certification,
2597 contract, or licensee with the department under this part and has or will likely
2598 have direct access;
- 2599 (K) a foster home licensee that submits an application for an annual background
2600 screening as required by Subsection 26B-2-105(4)(d)(iii); or
- 2601 (L) a short-term relief care provider.
- 2602 (ii) "Applicant" does not include:
- 2603 (A) an individual who is in the custody of the Division of Child and Family
2604 Services or the Division of Juvenile Justice and Youth Services;
- 2605 (B) an individual who applies for employment with, or is employed by, the
2606 Department of Health and Human Services;
- 2607 (C) a parent of a person receiving services from the Division of Services for
2608 People with Disabilities, if the parent provides direct care to and resides with
2609 the person, including if the parent provides direct care to and resides with the
2610 person pursuant to a court order; or
- 2611 (D) an individual or a department contractor who provides services in an adults
2612 only substance use disorder program, as defined by rule adopted by the
2613 Department of Health and Human Services in accordance with Title 63G,
2614 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
2615 director or a member, as defined by Section 26B-2-105, of the program.
- 2616 (b) "Application" means a background check application to the office.
- 2617 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
2618 Public Safety, created in Section 53-10-201.
- 2619 (d) "Criminal finding" means a record of:
- 2620 (i) an arrest for a criminal offense;
- 2621 (ii) a warrant for a criminal arrest;
- 2622 (iii) charges for a criminal offense; or
- 2623 (iv) a criminal conviction.

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- 2624 (e) "Direct access" means that an individual has, or likely will have:
- 2625 (i) contact with or access to a child or vulnerable adult by which the individual will
- 2626 have the opportunity for personal communication or touch with the child or
- 2627 vulnerable adult; or
- 2628 (ii) an opportunity to view medical, financial, or other confidential personal
- 2629 identifying information of the child, the child's parent or legal guardian, or the
- 2630 vulnerable adult.
- 2631 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
- 2632 by the office within the license and renewal time period; and
- 2633 (ii) no more than 180 days have passed since the date on which the applicant's
- 2634 association with a certification, contract, or licensee with the department expires.
- 2635 (g) "Incidental care" means occasional care, not in excess of five hours per week and
- 2636 never overnight, for a foster child.
- 2637 (h) "Licensee" means an individual or a human services program licensed by the
- 2638 division.
- 2639 (i) "Non-criminal finding" means a record maintained in:
- 2640 (i) the Division of Child and Family Services' Management Information System
- 2641 described in Section 80-2-1001;
- 2642 (ii) the Division of Child and Family Services' Licensing Information System
- 2643 described in Section 80-2-1002;
- 2644 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
- 2645 exploitation database described in Section 26B-6-210;
- 2646 (iv) juvenile court arrest, adjudication, and disposition records;
- 2647 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77,
- 2648 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
- 2649 offender registry; or
- 2650 (vi) a state child abuse or neglect registry.
- 2651 (j) "Office" means the Office of Background Processing within the department.
- 2652 (k) "Personal identifying information" means:
- 2653 (i) current name, former names, nicknames, and aliases;
- 2654 (ii) date of birth;

- 2655 (iii) physical address and email address;
 - 2656 (iv) telephone number;
 - 2657 (v) driver license or other government-issued identification;
 - 2658 (vi) social security number;
 - 2659 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
 - 2660 specified by the office; and
 - 2661 (viii) other information specified by the office by rule made in accordance with Title
 - 2662 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2663 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
- 2664 following to the office:
- 2665 (a) personal identifying information;
 - 2666 (b) a fee established by the office under Section 63J-1-504;
 - 2667 (c) a disclosure form, specified by the office, for consent for:
 - 2668 (i) an initial background check upon association with a certification, contract, or
 - 2669 licensee with the department;
 - 2670 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
 - 2671 certification, contract, or licensee with the department for 180 days;
 - 2672 (iii) a background check when the office determines that reasonable cause exists; and
 - 2673 (iv) retention of personal identifying information, including fingerprints, for
 - 2674 monitoring and notification as described in Subsections (3)(c) and (4);
 - 2675 (d) if an applicant resided outside of the United States and its territories during the five
 - 2676 years immediately preceding the day on which the information described in
 - 2677 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
 - 2678 whether the applicant was convicted of a crime during the time that the applicant
 - 2679 resided outside of the United States or its territories; and
 - 2680 (e) an application showing an applicant's association with a certification, contract, or a
 - 2681 licensee with the department, for the purpose of the office tracking the direct access
 - 2682 qualified status of the applicant, which expires 180 days after the date on which the
 - 2683 applicant is no longer associated with a certification, contract, or a licensee with the
 - 2684 department.
- 2685 (3) The office:

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- 2686 (a) shall perform the following duties as part of a background check of an applicant
2687 before the office grants or denies direct access qualified status to an applicant:
2688 (i) check state and regional criminal background databases for the applicant's
2689 criminal history by:
2690 (A) submitting personal identifying information to the bureau for a search; or
2691 (B) using the applicant's personal identifying information to search state and
2692 regional criminal background databases as authorized under Section 53-10-108;
2693 (ii) submit the applicant's personal identifying information and fingerprints to the
2694 bureau for a criminal history search of applicable national criminal background
2695 databases;
2696 (iii) search the Division of Child and Family Services' Licensing Information System
2697 described in Section 80-2-1002;
2698 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title
2699 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national
2700 sex offender registry for an applicant 18 years old or older;
2701 (v) if the applicant is associated with a licensee for a prospective foster or adoptive
2702 parent, search the Division of Child and Family Services' Management
2703 Information System described in Section 80-2-1001;
2704 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
2705 or exploitation database described in Section 26B-6-210;
2706 (vii) search the juvenile court records for substantiated findings of severe child abuse
2707 or neglect described in Section 80-3-404; and
2708 (viii) search the juvenile court arrest, adjudication, and disposition records, as
2709 provided under Section 78A-6-209;
2710 (b) may conduct all or portions of a background check in connection with determining
2711 whether an applicant is direct access qualified, as provided by rule, made by the
2712 office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
2713 (i) for an annual renewal; or
2714 (ii) when the office determines that reasonable cause exists;
2715 (c) may submit an applicant's personal identifying information, including fingerprints, to
2716 the bureau for checking, retaining, and monitoring of state and national criminal

- 2717 background databases and for notifying the office of new criminal activity associated
2718 with the applicant;
- 2719 (d) shall track the status of an applicant under this section to ensure that the applicant is
2720 not required to duplicate the submission of the applicant's fingerprints if the applicant
2721 is associated with more than one certification, contract, or licensee with the
2722 department;
- 2723 (e) shall notify the bureau when a direct access qualified individual has not been
2724 associated with a certification, contract, or licensee with the department for a period
2725 of 180 days;
- 2726 (f) shall adopt measures to strictly limit access to personal identifying information solely
2727 to the individuals responsible for processing and entering the applications for
2728 background checks and to protect the security of the personal identifying information
2729 the office reviews under this Subsection (3);
- 2730 (g) as necessary to comply with the federal requirement to check a state's child abuse
2731 and neglect registry regarding any applicant working in a congregate care program,
2732 shall:
- 2733 (i) search the Division of Child and Family Services' Licensing Information System
2734 described in Section 80-2-1002; and
- 2735 (ii) require the child abuse and neglect registry be checked in each state where an
2736 applicant resided at any time during the five years immediately preceding the day
2737 on which the application is submitted to the office; and
- 2738 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
2739 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
2740 background checks.
- 2741 (4)(a) With the personal identifying information the office submits to the bureau under
2742 Subsection (3), the bureau shall check against state and regional criminal background
2743 databases for the applicant's criminal history.
- 2744 (b) With the personal identifying information and fingerprints the office submits to the
2745 bureau under Subsection (3), the bureau shall check against national criminal
2746 background databases for the applicant's criminal history.
- 2747 (c) Upon direction from the office, and with the personal identifying information and

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- 2748 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 2749 (i) maintain a separate file of the fingerprints for search by future submissions to the
- 2750 local and regional criminal records databases, including latent prints; and
- 2751 (ii) monitor state and regional criminal background databases and identify criminal
- 2752 activity associated with the applicant.
- 2753 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
- 2754 Investigation Next Generation Identification System, to be retained in the Federal
- 2755 Bureau of Investigation Next Generation Identification System for the purpose of:
- 2756 (i) being searched by future submissions to the national criminal records databases,
- 2757 including the Federal Bureau of Investigation Next Generation Identification
- 2758 System and latent prints; and
- 2759 (ii) monitoring national criminal background databases and identifying criminal
- 2760 activity associated with the applicant.
- 2761 (e) The Bureau shall notify and release to the office all information of criminal activity
- 2762 associated with the applicant.
- 2763 (f) Upon notice that an individual who has direct access qualified status will no longer
- 2764 be associated with a certification, contract, or licensee with the department, the
- 2765 bureau shall:
- 2766 (i) discard and destroy any retained fingerprints; and
- 2767 (ii) notify the Federal Bureau of Investigation when the license has expired or an
- 2768 individual's direct access to a child or a vulnerable adult has ceased, so that the
- 2769 Federal Bureau of Investigation will discard and destroy the retained fingerprints
- 2770 from the Federal Bureau of Investigation Next Generation Identification System.
- 2771 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access
- 2772 qualified status to an applicant who, within three years from the date on which the
- 2773 office conducts the background check, was convicted of:
- 2774 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 2775 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
- 2776 cruelty to animals, or bestiality;
- 2777 (B) a violation of any pornography law, including sexual exploitation of a minor
- 2778 or aggravated sexual exploitation of a minor;

- 2779 (C) sexual solicitation or prostitution;
- 2780 (D) a violent offense committed in the presence of a child, as described in Section
- 2781 76-3-203.10;
- 2782 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 2783 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 2784 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 2785 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 2786 (I) an offense included in [~~Title 76, Chapter 9, Part 4, Offenses Against Privacy~~]
- 2787 Title 76, Chapter 12, Part 3, Privacy Offenses;
- 2788 (J) an offense included in [~~Title 76, Chapter 10, Part 4, Weapons of Mass~~
- 2789 ~~Destruction~~] Title 76, Chapter 15, Part 3, Weapons of Mass Destruction;
- 2790 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
- 2791 Injunctions;
- 2792 (L) aggravated arson, as described in Section 76-6-103;
- 2793 (M) aggravated burglary, as described in Section 76-6-203;
- 2794 (N) aggravated exploitation of prostitution, as described in Section [~~76-10-1306~~]
- 2795 76-5d-208;
- 2796 (O) aggravated robbery, as described in Section 76-6-302;
- 2797 (P) endangering persons in a human services program, as described in Section
- 2798 26B-2-113;
- 2799 (Q) failure to report, as described in Section 80-2-609;
- 2800 (R) identity fraud crime, as described in Section 76-6-1102;
- 2801 (S) leaving a child unattended in a motor vehicle, as described in Section [
- 2802 ~~76-10-2202~~] 76-5-115;
- 2803 (T) riot, as described in Section 76-9-101;
- 2804 (U) sexual battery, as described in Section [~~76-9-702.1~~] 76-5-418; or
- 2805 (V) threatening with or using a dangerous weapon in a fight or quarrel, as
- 2806 described in Section [~~76-10-506~~] 76-11-205; or
- 2807 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
- 2808 in the state, would constitute a violation of an offense described in Subsection
- 2809 (5)(a)(i).

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- 2810 (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
2811 peer support provider or a mental health professional, if the applicant provides
2812 services in a program that serves only adults with a primary mental health
2813 diagnosis, with or without a co-occurring substance use disorder.
- 2814 (ii) The office shall conduct a comprehensive review of an applicant described in
2815 Subsection (5)(b)(i) in accordance with Subsection (7).
- 2816 (c) The office shall deny direct access qualified status to an applicant if the office finds
2817 that a court order prohibits the applicant from having direct access to a child or
2818 vulnerable adult.
- 2819 (6) The office shall conduct a comprehensive review of an applicant's background check if
2820 the applicant:
- 2821 (a) has a felony or class A misdemeanor conviction that is more than three years from
2822 the date on which the office conducts the background check, for an offense described
2823 in Subsection (5)(a);
- 2824 (b) has a felony charge or conviction that is no more than 10 years from the date on
2825 which the office conducts the background check for an offense not described in
2826 Subsection (5)(a);
- 2827 (c) has a felony charge or conviction that is more than 10 years from the date on which
2828 the office conducts the background check, for an offense not described in Subsection
2829 (5)(a), with criminal or non-criminal findings after the date of the felony charge or
2830 conviction;
- 2831 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than
2832 three years and no more than 10 years from the date on which the office conducts the
2833 background check for an offense described in Subsection (5)(a);
- 2834 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
2835 years from the date on which the office conducts the background check, for an
2836 offense described in Subsection (5)(a), with criminal or non-criminal findings after
2837 the date of conviction;
- 2838 (f) has a misdemeanor charge or conviction that is no more than three years from the
2839 date on which the office conducts the background check for an offense not described
2840 in Subsection (5)(a);

- 2841 (g) has a misdemeanor charge or conviction that is more than three years from the date
2842 on which the office conducts the background check, for an offense not described in
2843 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
2844 conviction;
- 2845 (h) is currently subject to a plea in abeyance or diversion agreement for an offense
2846 described in Subsection (5)(a);
- 2847 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title
2848 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
2849 offender registry;
- 2850 (j) has a record of an adjudication in juvenile court for an act that, if committed by an
2851 adult, would be a felony or misdemeanor, if the applicant is:
- 2852 (i) under 28 years old; or
- 2853 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
2854 currently subject to a plea in abeyance or diversion agreement for a felony or a
2855 misdemeanor offense described in Subsection (5)(a);
- 2856 (k) has a pending charge for an offense described in Subsection (5)(a);
- 2857 (l) has a listing that occurred no more than 15 years from the date on which the office
2858 conducts the background check in the Division of Child and Family Services'
2859 Licensing Information System described in Section ;
- 2860 (m) has a listing that occurred more than 15 years from the date on which the office
2861 conducts the background check in the Division of Child and Family Services'
2862 Licensing Information System described in Section 80-2-1002, with criminal or
2863 non-criminal findings after the date of the listing;
- 2864 (n) has a listing that occurred no more than 15 years from the date on which the office
2865 conducts the background check in the Division of Aging and Adult Services'
2866 vulnerable adult abuse, neglect, or exploitation database described in Section
2867 26B-6-210;
- 2868 (o) has a listing that occurred more than 15 years from the date on which the office
2869 conducts the background check in the Division of Aging and Adult Services'
2870 vulnerable adult abuse, neglect, or exploitation database described in Section
2871 26B-6-210, with criminal or non-criminal findings after the date of the listing;

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- 2872 (p) has a substantiated finding that occurred no more than 15 years from the date on
2873 which the office conducts the background check of severe child abuse or neglect
2874 under Section 80-3-404 or 80-3-504 ; or
- 2875 (q) has a substantiated finding that occurred more than 15 years from the date on which
2876 the office conducts the background check of severe child abuse or neglect under
2877 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
2878 the listing.
- 2879 (7)(a) The comprehensive review shall include an examination of:
- 2880 (i) the date of the offense or incident;
 - 2881 (ii) the nature and seriousness of the offense or incident;
 - 2882 (iii) the circumstances under which the offense or incident occurred;
 - 2883 (iv) the age of the perpetrator when the offense or incident occurred;
 - 2884 (v) whether the offense or incident was an isolated or repeated incident;
 - 2885 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
2886 adult, including:
 - 2887 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
 - 2888 (B) sexual abuse;
 - 2889 (C) sexual exploitation; or
 - 2890 (D) negligent treatment;
 - 2891 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
2892 treatment received, or additional academic or vocational schooling completed;
 - 2893 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
2894 which the applicant is applying; and
 - 2895 (ix) if the background check of an applicant is being conducted for the purpose of
2896 giving direct access qualified status to an applicant seeking a position in a
2897 congregate care program or to become a prospective foster or adoptive parent, any
2898 listing in the Division of Child and Family Services' Management Information
2899 System described in Section 80-2-1001.
- 2900 (b) At the conclusion of the comprehensive review, the office shall deny direct access
2901 qualified status to an applicant if the office finds the approval would likely create a
2902 risk of harm to a child or vulnerable adult.

- 2903 (8) The office shall grant direct access qualified status to an applicant who is not denied
2904 under this section.
- 2905 (9)(a) The office may conditionally grant direct access qualified status to an applicant,
2906 for a maximum of 60 days after the day on which the office sends written notice,
2907 without requiring that the applicant be directly supervised, if the office:
- 2908 (i) is awaiting the results of the criminal history search of national criminal
2909 background databases; and
 - 2910 (ii) would otherwise grant direct access qualified status to the applicant under this
2911 section.
- 2912 (b) The office may conditionally grant direct access qualified status to an applicant, for a
2913 maximum of one year after the day on which the office sends written notice, without
2914 requiring that the applicant be directly supervised if the office:
- 2915 (i) is awaiting the results of an out-of-state registry for providers other than foster and
2916 adoptive parents; and
 - 2917 (ii) would otherwise grant direct access qualified status to the applicant under this
2918 section.
- 2919 (c) Upon receiving the results of the criminal history search of a national criminal
2920 background database, the office shall grant or deny direct access qualified status to
2921 the applicant in accordance with this section.
- 2922 (10)(a) Each time an applicant is associated with a licensee, the department shall review
2923 the current status of the applicant's background check to ensure the applicant is still
2924 eligible for direct access qualified status in accordance with this section.
- 2925 (b) A licensee may not permit an individual to have direct access to a child or a
2926 vulnerable adult without being directly supervised unless:
- 2927 (i) the individual is the parent or guardian of the child, or the guardian of the
2928 vulnerable adult;
 - 2929 (ii) the individual is approved by the parent or guardian of the child, or the guardian
2930 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
 - 2931 (iii) the individual is only permitted to have direct access to a vulnerable adult who
2932 voluntarily invites the individual to visit; or
 - 2933 (iv) the individual only provides incidental care for a foster child on behalf of a foster

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2934 parent who has used reasonable and prudent judgment to select the individual to
2935 provide the incidental care for the foster child.

2936 (c) Notwithstanding any other provision of this section, an applicant who is denied direct
2937 access qualified status shall not have direct access to a child or vulnerable adult
2938 unless the office grants direct access qualified status to the applicant through a
2939 subsequent application in accordance with this section.

2940 (11) If the office denies direct access qualified status to an applicant, the applicant may
2941 request a hearing in the department's Office of Administrative Hearings to challenge the
2942 office's decision.

2943 (12)(a) This Subsection (12) applies to an applicant associated with a certification,
2944 contract, or licensee serving adults only.

2945 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
2946 shall comply with this section.

2947 (c) The office shall conduct a comprehensive review for an applicant if:

2948 (i) the applicant is seeking a position:

2949 (A) as a peer support provider;

2950 (B) as a mental health professional; or

2951 (C) in a program that serves only adults with a primary mental health diagnosis,
2952 with or without a co-occurring substance use disorder; and

2953 (ii) within three years from the date on which the office conducts the background
2954 check, the applicant has a felony or misdemeanor charge or conviction or a
2955 non-criminal finding.

2956 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate
2957 care program, an applicant seeking to provide a prospective foster home, an applicant
2958 seeking to provide a prospective adoptive home, and each adult living in the home of
2959 the prospective foster or prospective adoptive home.

2960 (b) As federally required, the office shall:

2961 (i) check the child abuse and neglect registry in each state where each applicant
2962 resided in the five years immediately preceding the day on which the applicant
2963 applied to be a foster or adoptive parent, to determine whether the prospective
2964 foster or adoptive parent is listed in the registry as having a substantiated or

- 2965 supported finding of child abuse or neglect; and
- 2966 (ii) except for applicants seeking a position in a congregate care program, check the
- 2967 child abuse and neglect registry in each state where each adult living in the home
- 2968 of the prospective foster or adoptive home resided in the five years immediately
- 2969 preceding the day on which the applicant applied to be a foster or adoptive parent,
- 2970 to determine whether the adult is listed in the registry as having a substantiated or
- 2971 supported finding of child abuse or neglect.
- 2972 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 2973 (i) federal law or rule permits otherwise; or
- 2974 (ii) the requirements would prohibit the Division of Child and Family Services or a
- 2975 court from placing a child with:
- 2976 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 2977 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
- 2978 or 80-3-303, pending completion of the background check described in
- 2979 Subsections (5), (6), and (7).
- 2980 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 2981 qualified status if the applicant has been convicted of:
- 2982 (i) a felony involving conduct that constitutes any of the following:
- 2983 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 2984 (B) commission of domestic violence in the presence of a child, as described in
- 2985 Section 76-5-114;
- 2986 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 2987 (D) intentional aggravated abuse of a vulnerable adult, as described in Section
- 2988 76-5-111;
- 2989 (E) endangerment of a child or vulnerable adult, as described in Section
- 2990 76-5-112.5;
- 2991 (F) aggravated murder, as described in Section 76-5-202;
- 2992 (G) murder, as described in Section 76-5-203;
- 2993 (H) manslaughter, as described in Section 76-5-205;
- 2994 (I) child abuse homicide, as described in Section 76-5-208;
- 2995 (J) homicide by assault, as described in Section 76-5-209;

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- 2996 (K) kidnapping, as described in Section 76-5-301;
- 2997 (L) child kidnapping, as described in Section 76-5-301.1;
- 2998 (M) aggravated kidnapping, as described in Section 76-5-302;
- 2999 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 3000 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses,
- 3003 not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;
- 3004 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
- 3005 Exploitation Act;
- 3006 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 3007 (R) aggravated arson, as described in Section 76-6-103;
- 3008 (S) aggravated burglary, as described in Section 76-6-203;
- 3009 (T) aggravated robbery, as described in Section 76-6-302;
- 3010 [~~(U) lewdness involving a child, as described in Section 76-9-702.5;~~]
- 3011 [~~(V)~~] (U) incest, as described in Section 76-7-102; or
- 3012 [~~(W)~~] (V) domestic violence, as described in Section 77-36-1; or
- 3013 (ii) an offense committed outside the state that, if committed in the state, would
- 3014 constitute a violation of an offense described in Subsection (13)(d)(i).
- 3015 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 3016 qualified status to an applicant if, within the five years from the date on which the
- 3017 office conducts the background check, the applicant was convicted of a felony
- 3018 involving conduct that constitutes a violation of any of the following:
- 3019 (i) aggravated assault, as described in Section 76-5-103;
- 3020 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 3021 (iii) mayhem, as described in Section 76-5-105;
- 3022 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 3023 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 3024 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 3025 Act;
- 3026 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 3027 Precursor Act; or
- 3028 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

- 3029 (f) In addition to the circumstances described in Subsection (6), the office shall conduct
3030 a comprehensive review of an applicant's background check under this section if the
3031 applicant:
- 3032 (i) has an offense described in Subsection (5)(a);
 - 3033 (ii) has an infraction conviction entered on a date that is no more than three years
3034 before the date on which the office conducts the background check;
 - 3035 (iii) has a listing in the Division of Child and Family Services' Licensing Information
3036 System described in Section 80-2-1002;
 - 3037 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
3038 neglect, or exploitation database described in Section 26B-2-210;
 - 3039 (v) has a substantiated finding of severe child abuse or neglect under Section
3040 80-3-404 or 80-3-504; or
 - 3041 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
3042 substantiated or supported finding of a severe type of child abuse or neglect, as
3043 defined in Section 80-1-102.

3044 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3045 office may make rules, consistent with this part, to:

- 3046 (a) establish procedures for, and information to be examined in, the comprehensive
3047 review described in Subsections (6), (7), and (13); and
- 3048 (b) determine whether to consider an offense or incident that occurred while an
3049 individual was in the custody of the Division of Child and Family Services or the
3050 Division of Juvenile Justice and Youth Services for purposes of granting or denying
3051 direct access qualified status to an applicant.

3052 Section 29. Section **26B-4-501** is amended to read:

3053 **26B-4-501 . Definitions.**

3054 As used in this part:

- 3055 (1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37,
3056 Utah Controlled Substances Act.
- 3057 (2) "Critical access hospital" means a critical access hospital that meets the criteria of 42
3058 U.S.C. Sec. 1395i-4(c)(2) (1998).
- 3059 (3) "Designated facility" means:

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- 3060 (a) a freestanding urgent care center;
- 3061 (b) a general acute hospital; or
- 3062 (c) a critical access hospital.
- 3063 (4) "Dispense" means the same as that term is defined in Section 58-17b-102.
- 3064 (5) "Division" means the Division of Professional Licensing created in Section 58-1-103.
- 3065 (6) "Emergency contraception" means the use of a substance, approved by the United States
- 3066 Food and Drug Administration, to prevent pregnancy after sexual intercourse.
- 3067 (7) "Freestanding urgent care center" means the same as that term is defined in Section
- 3068 59-12-801.
- 3069 (8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.
- 3070 (9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility,
- 3071 a dialysis treatment facility, an assisted living residence, an entity that provides home-
- 3072 and community-based services, a hospice or home health care agency, or another facility
- 3073 that provides or contracts to provide health care services, which facility is licensed under
- 3074 Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 3075 (10) "Health care provider" means:
- 3076 (a) a physician, as defined in Section 58-67-102;
- 3077 (b) an advanced practice registered nurse, as defined in Section 58-31b-102;
- 3078 (c) a physician assistant, as defined in Section 58-70a-102; or
- 3079 (d) an individual licensed to engage in the practice of dentistry, as defined in Section
- 3080 58-69-102.
- 3081 (11) "Increased risk" means risk exceeding the risk typically experienced by an individual
- 3082 who is not using, and is not likely to use, an opiate.
- 3083 (12) "Opiate" means the same as that term is defined in Section 58-37-2.
- 3084 (13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is
- 3085 not a controlled substance and that is approved by the federal Food and Drug
- 3086 Administration for the diagnosis or treatment of an opiate-related drug overdose.
- 3087 (14) "Opiate-related drug overdose event" means an acute condition, including a decreased
- 3088 level of consciousness or respiratory depression resulting from the consumption or use
- 3089 of a controlled substance, or another substance with which a controlled substance was
- 3090 combined, and that a person would reasonably believe to require medical assistance.

- 3091 (15) "Overdose outreach provider" means:
- 3092 (a) a law enforcement agency;
- 3093 (b) a fire department;
- 3094 (c) an emergency medical service provider, as defined in Section 26B-4-101;
- 3095 (d) emergency medical service personnel, as defined in Section 26B-4-101;
- 3096 (e) an organization providing treatment or recovery services for drug or alcohol use;
- 3097 (f) an organization providing support services for an individual, or a family of an
- 3098 individual, with a substance use disorder;
- 3099 (g) a certified peer support specialist, as defined in Section 26B-5-610;
- 3100 (h) an organization providing substance use or mental health services under contract
- 3101 with a local substance abuse authority, as defined in Section 26B-5-101, or a local
- 3102 mental health authority, as defined in Section 26B-5-101;
- 3103 (i) an organization providing services to the homeless;
- 3104 (j) a local health department;
- 3105 (k) an individual licensed to practice under:
- 3106 (i) Title 58, Chapter 17b, Pharmacy Practice Act;
- 3107 (ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or
- 3108 (iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or
- 3109 (l) an individual.
- 3110 (16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.
- 3111 (17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- 3112 (18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.
- 3113 (19) "Physician" means the same as that term is defined in Section 58-67-102.
- 3114 (20) "Practitioner" means:
- 3115 (a) a physician; or
- 3116 (b) any other person who is permitted by law to prescribe emergency contraception.
- 3117 (21) "Prescribe" means the same as that term is defined in Section 58-17b-102.
- 3118 (22)(a) "Self-administered hormonal contraceptive" means a self-administered
- 3119 hormonal contraceptive that is approved by the United States Food and Drug
- 3120 Administration to prevent pregnancy.
- 3121 (b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive,

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3122 a hormonal vaginal ring, and a hormonal contraceptive patch.

3123 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
3124 induce an abortion, as that term is defined in Section 76-7-301.

3125 (23) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4,
3126 Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, that
3127 may result in a pregnancy.

3128 (24) "Victim of sexual assault" means any person who presents to receive, or receives,
3129 medical care in consequence of being subjected to sexual assault.

3130 Section 30. Section **26B-7-205** is amended to read:

3131 **26B-7-205 . Willful introduction of communicable disease a misdemeanor.**

3132 Any person who willfully or knowingly introduces any communicable or
3133 infectious disease into any county, municipality, or community is guilty of a class A
3134 misdemeanor, except as provided in Section [~~76-10-1309~~] 76-5d-211.

3135 Section 31. Section **26B-7-501** is amended to read:

3136 **26B-7-501 . Definitions.**

3137 As used in this part:

3138 (1) "Community location" means the same as that term is defined:

3139 (a) as it relates to a municipality, in Section 10-8-41.6; and

3140 (b) as it relates to a county, in Section 17-50-333.

3141 (2) "Electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~]
3142 76-9-1101.

3143 (3) "Electronic cigarette product" means the same as that term is defined in Section [
3144 ~~76-10-101~~] 76-9-1101.

3145 (4) "Electronic cigarette substance" means the same as that term is defined in Section [
3146 ~~76-10-101~~] 76-9-1101.

3147 (5) "Employee" means an employee of a tobacco retailer.

3148 (6) "Enforcing agency" means the department, or any local health department enforcing the
3149 provisions of this part.

3150 (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty
3151 business.

3152 (8) "Local health department" means the same as that term is defined in Section 26A-1-102.

- 3153 (9) "Manufacture" includes:
- 3154 (a) to cast, construct, or make electronic cigarettes; or
- 3155 (b) to blend, make, process, or prepare an electronic cigarette substance.
- 3156 (10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette
- 3157 substance that is sold in a container that:
- 3158 (a) is prefilled by the electronic cigarette substance manufacturer; and
- 3159 (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- 3160 (11) "Manufacturer sealed electronic cigarette product" means:
- 3161 (a) an electronic cigarette substance or container that the electronic cigarette
- 3162 manufacturer does not intend for a consumer to open or refill; or
- 3163 (b) a prefilled electronic cigarette as that term is defined in Section ~~[76-10-101]~~
- 3164 76-9-1101.
- 3165 (12) "Nicotine" means the same as that term is defined in Section ~~[76-10-101]~~ 76-9-1101.
- 3166 (13) "Nicotine product" means the same as that term is defined in Section ~~[76-10-101]~~
- 3167 76-9-1101.
- 3168 (14) "Non-tobacco shisha" means any product that:
- 3169 (a) does not contain tobacco or nicotine; and
- 3170 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 3171 (15) "Owner" means a person holding a 20% ownership interest in the business that is
- 3172 required to obtain a permit under this part.
- 3173 (16) "Permit" means a tobacco retail permit issued under Section 26B-7-507.
- 3174 (17) "Place of public access" means any enclosed indoor place of business, commerce,
- 3175 banking, financial service, or other service-related activity, whether publicly or privately
- 3176 owned and whether operated for profit or not, to which persons not employed at the
- 3177 place of public access have general and regular access or which the public uses,
- 3178 including:
- 3179 (a) buildings, offices, shops, elevators, or restrooms;
- 3180 (b) means of transportation or common carrier waiting rooms;
- 3181 (c) restaurants, cafes, or cafeterias;
- 3182 (d) taverns as defined in Section 32B-1-102, or cabarets;
- 3183 (e) shopping malls, retail stores, grocery stores, or arcades;

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- 3184 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites,
3185 auditoriums, or arenas;
- 3186 (g) barber shops, hair salons, or laundromats;
- 3187 (h) sports or fitness facilities;
- 3188 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
3189 breakfast" lodging facilities, and other similar lodging facilities, including the
3190 lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and
3191 restrooms of any of these;
- 3192 (j)(i) any child care facility or program subject to licensure or certification under this
3193 title, including those operated in private homes, when any child cared for under
3194 that license is present; and
- 3195 (ii) any child care, other than child care as defined in Section 26B-2-401, that is not
3196 subject to licensure or certification under this title, when any child cared for by the
3197 provider, other than the child of the provider, is present;
- 3198 (k) public or private elementary or secondary school buildings and educational facilities
3199 or the property on which those facilities are located;
- 3200 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
3201 religious organization when used solely by the organization members or the
3202 members' guests or families;
- 3203 (m) any facility rented or leased for private functions from which the general public is
3204 excluded and arrangements for the function are under the control of the function
3205 sponsor;
- 3206 (n) any workplace that is not a place of public access or a publicly owned building or
3207 office but has one or more employees who are not owner-operators of the business;
- 3208 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
3209 stating "no smoking", "thank you for not smoking", or similar statement; and
- 3210 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- 3211 (18)(a) "Proof of age" means:
- 3212 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
3213 Card Act;
- 3214 (ii) a valid identification that:

- 3215 (A) is substantially similar to an identification card issued under Title 53, Chapter
3216 3, Part 8, Identification Card Act;
- 3217 (B) is issued in accordance with the laws of a state other than Utah in which the
3218 identification is issued;
- 3219 (C) includes date of birth; and
- 3220 (D) has a picture affixed;
- 3221 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
3222 Driver License Act, or in accordance with the laws of the state in which the valid
3223 driver license is issued;
- 3224 (iv) a valid United States military identification card that:
- 3225 (A) includes date of birth; and
- 3226 (B) has a picture affixed; or
- 3227 (v) a valid passport.
- 3228 (b) "Proof of age" does not include a valid driving privilege card issued in accordance
3229 with Section 53-3-207.
- 3230 (19) "Publicly owned building or office" means any enclosed indoor place or portion of a
3231 place owned, leased, or rented by any state, county, or municipal government, or by any
3232 agency supported by appropriation of, or by contracts or grants from, funds derived from
3233 the collection of federal, state, county, or municipal taxes.
- 3234 (20) "Retail tobacco specialty business" means the same as that term is defined:
- 3235 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 3236 (b) as it relates to a county, in Section 17-50-333.
- 3237 (21) "Shisha" means any product that:
- 3238 (a) contains tobacco or nicotine; and
- 3239 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 3240 (22) "Smoking" means:
- 3241 (a) the possession of any lighted or heated tobacco product in any form;
- 3242 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or
3243 hookah that contains:
- 3244 (i) tobacco or any plant product intended for inhalation;
- 3245 (ii) shisha or non-tobacco shisha;

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- 3246 (iii) nicotine;
- 3247 (iv) a natural or synthetic tobacco substitute; or
- 3248 (v) a natural or synthetic flavored tobacco product;
- 3249 (c) using an electronic cigarette; or
- 3250 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
- 3251 this part.
- 3252 (23) "Tax commission license" means a license issued by the State Tax Commission under:
- 3253 (a) Section 59-14-201 to sell a cigarette at retail;
- 3254 (b) Section 59-14-301 to sell a tobacco product at retail; or
- 3255 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- 3256 (24) "Tobacco product" means:
- 3257 (a) a tobacco product as defined in Section [~~76-10-101~~] 76-9-1101; or
- 3258 (b) tobacco paraphernalia as defined in Section [~~76-10-101~~] 76-9-1101.
- 3259 (25) "Tobacco retailer" means a person that is required to obtain a tax commission license.
- 3260 Section 32. Section **26B-7-505** is amended to read:
- 3261 **26B-7-505 . Electronic cigarette products -- Labeling -- Requirements to sell --**
- 3262 **Advertising -- Labeling of nicotine products containing nicotine.**
- 3263 (1) The department shall, in consultation with a local health department and with input from
- 3264 members of the public, establish by rule made in accordance with Title 63G, Chapter 3,
- 3265 Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette
- 3266 substance that is not a manufacturer sealed electronic cigarette substance regarding:
- 3267 (a) labeling;
- 3268 (b) nicotine content;
- 3269 (c) packaging; and
- 3270 (d) product quality.
- 3271 (2) On or before January 1, 2021, the department shall, in consultation with a local health
- 3272 department and with input from members of the public, establish by rule made in
- 3273 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3274 requirements to sell a manufacturer sealed electronic cigarette product regarding:
- 3275 (a) labeling;
- 3276 (b) nicotine content;

3277 (c) packaging; and

3278 (d) product quality.

3279 (3)(a) A person may not sell an electronic cigarette substance unless the electronic
3280 cigarette substance complies with the requirements established by the department
3281 under Subsection (1).

3282 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
3283 cigarette product unless the manufacturer sealed electronic cigarette product complies
3284 with the requirements established by the department under Subsection (2).

3285 (c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a
3286 person may not sell an electronic cigarette product that is not a premarket authorized
3287 or pending electronic cigarette product as that term is defined in Section [~~76-10-101~~]
3288 76-9-1101.

3289 (4)(a) A local health department may not enact a rule or regulation regarding electronic
3290 cigarette substance labeling, nicotine content, packaging, or product quality that is
3291 not identical to the requirements established by the department under Subsections (1)
3292 and (2).

3293 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule
3294 or regulation regarding electronic cigarette substance manufacturing.

3295 (c) A local health department may not enact a rule or regulation regarding a
3296 manufacturer sealed electronic cigarette product.

3297 (5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

3298 (6)(a) Any nicotine product shall contain the statement described in Subsection (6)(b) if
3299 the nicotine product:

3300 (i)(A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related
3301 federal regulations; or

3302 (B) is not otherwise required under federal or state law to contain a nicotine
3303 warning; and

3304 (ii) contains nicotine.

3305 (b) A statement shall appear on the exterior packaging of a nicotine product described in
3306 Subsection (6)(a) as follows:

3307 "This product contains nicotine."

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3308 Section 33. Section **26B-7-508** is amended to read:

3309 **26B-7-508 . Permit application.**

3310 (1) A local health department shall issue a permit for a tobacco retailer if the local health
3311 department determines that the applicant:

3312 (a) accurately provided all information required under Subsection (3) and, if applicable,
3313 Subsection (4); and

3314 (b) meets all requirements for a permit under this part.

3315 (2) An applicant for a permit shall:

3316 (a) submit an application described in Subsection (3) to the local health department with
3317 jurisdiction over the area where the tobacco retailer is located; and

3318 (b) pay all applicable fees described in Section 26B-7-509.

3319 (3) The application for a permit shall include:

3320 (a) the name, address, and telephone number of each proprietor;

3321 (b) the name and mailing address of each proprietor authorized to receive permit-related
3322 communication and notices;

3323 (c) the business name, address, and telephone number of the single, fixed location for
3324 which a permit is sought;

3325 (d) evidence that the location for which a permit is sought has a valid tax commission
3326 license;

3327 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco
3328 retailer has been determined to have violated, or has been a proprietor at a location
3329 that has been determined to have violated:

3330 (i) a provision of this part;

3331 (ii) Section 26B-7-503;

3332 (iii) Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical
3333 Solvents;

3334 (iv) Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

3335 [~~(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical~~
3336 ~~Solvents;]~~

3337 [~~(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]~~

3338 (v) regulations restricting the sale and distribution of cigarettes and smokeless

3339 tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part
3340 1140; or

3341 (vi) any other provision of state law or local ordinance regarding the sale, marketing,
3342 or distribution of a tobacco product, an electronic cigarette product, or a nicotine
3343 product; and

3344 (f) the dates of all violations disclosed under this Subsection (3).

3345 (4)(a) In addition to the information described in Subsection (3), an applicant for a retail
3346 tobacco specialty business permit shall include evidence showing whether the
3347 business is located within:

3348 (i) 1,000 feet of a community location;

3349 (ii) 600 feet of another retail tobacco specialty business; or

3350 (iii) 600 feet of property used or zoned for agricultural or residential use.

3351 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a
3352 straight line from the nearest entrance of the retail tobacco specialty business to the
3353 nearest property boundary of a location described in Subsections (4)(a)(i) through (iii),
3354 without regard to intervening structures or zoning districts.

3355 (5) The department or a local health department may not deny a permit to a retail tobacco
3356 specialty business under Subsection (4) if the retail tobacco specialty business meets the
3357 requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

3358 (6)(a) The department shall establish by rule made in accordance with Title 63G,
3359 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health
3360 departments in accordance with this part.

3361 (b) The permit process established by the department under Subsection (6)(a) may not
3362 require any information in an application that is not required by this section.

3363 Section 34. Section **26B-7-511** is amended to read:

3364 **26B-7-511 . Permit requirements for a retail tobacco specialty business.**

3365 (1) A retail tobacco specialty business shall:

3366 (a) electronically verify proof of age for any individual that enters the premises of the
3367 business in accordance with Section 26B-7-521;

3368 (b) except as provided in [~~Subsection 76-10-105.1(4)~~] Section 76-9-1108, prohibit any
3369 individual from entering the business if the individual is under 21 years old; and

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- 3370 (c) prominently display at the retail tobacco specialty business a sign on the public
3371 entrance of the business that communicates:
- 3372 (i) the prohibition on the presence of an individual under 21 years old in a retail
3373 tobacco specialty business in [~~Subsection 76-10-105.1(4)~~] Section 76-9-1108; and
3374 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to
3375 an individual under 21 years old as described in Sections [~~76-10-104~~] 76-9-1104, [
3376 ~~76-10-104.1~~] 76-9-1105, [~~76-10-105.1~~] 76-9-1108, and [~~76-10-114~~] 76-9-1116.

3377 (2) A retail tobacco specialty business may not:

- 3378 (a) employ an individual under 21 years old to sell a tobacco product, an electronic
3379 cigarette product, or a nicotine product; or
- 3380 (b) permit an employee under 21 years old to sell a tobacco product, an electronic
3381 cigarette product, or a nicotine product.

3382 Section 35. Section **26B-7-514** is amended to read:

3383 **26B-7-514 . Permit violation.**

3384 A person is in violation of the permit issued under this part if the person violates:

- 3385 (1) a provision of this part;
- 3386 (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;
- 3387 (3) a provision of [~~Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic~~
3388 ~~Chemical Solvents~~] Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic
3389 Chemical Solvents;
- 3390 (4) a provision of [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Title 76,
3391 Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;
- 3392 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco
3393 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- 3394 (6) any other provision of state law or local ordinance regarding the sale, marketing, or
3395 distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

3396 Section 36. Section **26B-7-516** is amended to read:

3397 **26B-7-516 . Inspection of retail tobacco businesses.**

3398 The department or a local health department may inspect a tobacco retailer to
3399 determine whether the tobacco retailer:

- 3400 (1) continues to meet the qualifications for the permit issued under this part;

- 3401 (2) if applicable, continues to meet the requirements for a retail tobacco specialty business
3402 license issued under Section 10-8-41.6 or Section 17-50-333;
- 3403 (3) engaged in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of~~
3404 ~~Unlawful Activity Act~~] Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of
3405 Unlawful Activity;
- 3406 (4) violated any of the regulations restricting the sale and distribution of cigarettes and
3407 smokeless tobacco issued by the United States Food and Drug Administration under 21
3408 C.F.R. Part 1140; or
- 3409 (5) has violated any other provision of state law or local ordinance.

3410 Section 37. Section **26B-7-517** is amended to read:

3411 **26B-7-517 . Hearing -- Evidence of criminal conviction.**

- 3412 (1) At a civil hearing conducted under Section 26B-7-515, evidence of the final criminal
3413 conviction of a tobacco retailer for violation of Section [~~76-10-114~~] 76-9-1116 at the
3414 same location and within the same time period as the location and time period alleged in
3415 the civil hearing for violation of this part for sale of a tobacco product, an electronic
3416 cigarette product, or a nicotine product to an individual under 21 years old is prima facie
3417 evidence of a violation of this part.
- 3418 (2) If the tobacco retailer is convicted of violating Section [~~76-10-114~~] 76-9-1116, the
3419 enforcing agency:
- 3420 (a) shall assess an additional monetary penalty under this part for the same offense for
3421 which the conviction was obtained; and
- 3422 (b) shall revoke or suspend a permit in accordance with Section 26B-7-518.

3423 Section 38. Section **26B-7-521** is amended to read:

3424 **26B-7-521 . Verification of proof of age.**

- 3425 (1) As used in this section:
- 3426 (a) "Employee" means an employee of a retail tobacco specialty business.
- 3427 (b) "Electronic verification program" means a technology used by a retail tobacco
3428 specialty business to confirm proof of age for an individual.
- 3429 (2) A retail tobacco specialty business shall require that an employee verify proof of age as
3430 provided in this section.
- 3431 (3) To comply with Subsection (2), an employee shall:

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- 3432 (a) request the individual present proof of age; and
- 3433 (b) verify the validity of the proof of age electronically in accordance with Subsection (4).
- 3434 (4) A retail tobacco specialty business shall use an electronic verification program to assist
- 3435 the business in complying with the requirements of this section.
- 3436 (5)(a) A retail tobacco specialty business may not disclose information obtained under
- 3437 this section except as provided under this part.
- 3438 (b) Information obtained under this section:
- 3439 (i) shall be kept for at least 180 days; and
- 3440 (ii) is subject to inspection upon request by a peace officer or the representative of an
- 3441 enforcing agency.
- 3442 (6)(a) If an employee does not verify proof of age under this section, the employee may
- 3443 not permit an individual to:
- 3444 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
- 3445 (ii) purchase a tobacco product or an electronic cigarette product.
- 3446 (b) In accordance with [~~Subsection 76-10-105.1(4)~~] Section 76-9-1108, an individual
- 3447 who is under 21 years old may be permitted to enter a retail tobacco specialty
- 3448 business if the individual is:
- 3449 (i) accompanied by a parent or legal guardian who provides proof of age; or
- 3450 (ii)(A) present at the retail tobacco specialty business solely for the purpose of
- 3451 providing a commercial service to the retail tobacco specialty business,
- 3452 including making a commercial delivery;
- 3453 (B) monitored by the proprietor of the retail tobacco specialty business or an
- 3454 employee of the retail tobacco specialty business; and
- 3455 (C) not permitted to make any purchase or conduct any commercial transaction
- 3456 other than the service described in Subsection (6)(b)(ii)(A).
- 3457 (7) To determine whether the individual described in Subsection (2) is 21 years old or
- 3458 older, the following may request an individual described in Subsection (2) to present
- 3459 proof of age:
- 3460 (a) an employee;
- 3461 (b) a peace officer; or
- 3462 (c) a representative of an enforcing agency.

3463 Section 39. Section **26B-8-208** is amended to read:

3464 **26B-8-208 . Rendering a dead body unavailable for postmortem investigation.**

3465 (1) As used in this section:

3466 (a) "Medical examiner" means the same as that term is defined in Section 26B-8-201.

3467 (b) "Unavailable for postmortem investigation" means the same as that term is defined in
3468 Section 26B-8-201.

3469 (2) It is unlawful for a person to engage in any conduct that makes a dead body unavailable
3470 for postmortem investigation, unless, before engaging in that conduct, the person obtains
3471 a permit from the medical examiner to render the dead body unavailable for postmortem
3472 investigation, under Section 26B-8-230, if the person intends to make the body
3473 unavailable for postmortem investigation.

3474 (3) A person who violates Subsection (2) is guilty of a third degree felony.

3475 (4) If a person engages in conduct that constitutes both a violation of this section and a
3476 violation of Section ~~[76-9-704]~~ 76-5-802 or 76-5-803, the provisions and penalties of
3477 Section ~~[76-9-704]~~ 76-5-802 or 76-5-802 supersede the provisions and penalties of this
3478 section.

3479 Section 40. Section **31A-21-501** is amended to read:

3480 **31A-21-501 . Definitions.**

3481 For purposes of this part:

3482 (1) "Applicant" means:

3483 (a) in the case of an individual life or accident and health policy, the person who seeks to
3484 contract for insurance benefits; or

3485 (b) in the case of a group life or accident and health policy, the proposed certificate
3486 holder.

3487 (2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an
3488 individual who is 16 years old or older who:

3489 (a) is or was a spouse of the other party;

3490 (b) is or was living as if a spouse of the other party;

3491 (c) is related by blood or marriage to the other party;

3492 (d) has one or more children in common with the other party; or

3493 (e) resides or has resided in the same residence as the other party.

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- 3494 (3) "Child abuse" means the commission or attempt to commit against a child a criminal
3495 offense described in:
- 3496 (a) Title 76, Chapter 5, Part 1, Assault and Related Offenses; or
3497 (b) Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417[;] .
3498 [~~(e) Section 76-9-702, Lewdness;~~]
3499 [~~(d) Section 76-9-702.1, Sexual battery; or~~]
3500 [~~(e) Section 76-9-702.5, Lewdness involving a child.~~]
- 3501 (4) "Domestic violence" means any criminal offense involving violence or physical harm or
3502 threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit
3503 a criminal offense involving violence or physical harm, when committed by one
3504 cohabitant against another and includes commission or attempt to commit, any of the
3505 following offenses by one cohabitant against another:
- 3506 (a) aggravated assault, as described in Section 76-5-103;
3507 (b) assault, as described in Section 76-5-102;
3508 (c) criminal homicide, as described in Section 76-5-201;
3509 (d) harassment, as described in Section 76-5-106;
3510 (e) electronic communication harassment, as described in [~~Section 76-9-201~~] Section
3511 76-12-202, 76-12-203, or 76-12-204;
3512 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
3513 76-5-301, 76-5-301.1, and 76-5-302;
3514 (g) mayhem, as described in Section 76-5-105;
3515 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
3516 Sections 76-5b-201 and 76-5b-201.1;
3517 (i) stalking, as described in Section 76-5-106.5;
3518 (j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;
3519 (k) violation of a protective order or ex parte protective order, as described in Section
3520 76-5-108;
3521 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
3522 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;
3523 (m) possession of a deadly weapon with intent to assault, as described in Section [
3524 ~~76-10-507~~] 76-11-206; or

3525 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
3526 person, building, or vehicle, as described in Section ~~[76-10-508]~~ 76-11-207.

3527 (5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or
3528 may have been subject to domestic violence or child abuse.

3529 Section 41. Section **32B-3-303** is amended to read:

3530 **32B-3-303 . Acts making a person subject to this part.**

3531 (1) One or more of the following acts constitute a nuisance activity:

3532 (a) a single felony conviction within the last two years of:

3533 (i) a retail licensee; or

3534 (ii) supervisory or managerial level staff of the retail licensee;

3535 (b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

3536 (i)(A) of a retail licensee; or

3537 (B) staff of the retail licensee;

3538 (ii) within the last two years; and

3539 (iii) made on the basis of an act that occurs on the licensed premises;

3540 (c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,
3541 Utah Controlled Substances Act, if:

3542 (i) the convictions are made on the basis of an act that occurs on the licensed
3543 premises; and

3544 (ii) there is evidence that the retail licensee knew or should have known of the illegal
3545 activity;

3546 (d) a single conviction within the last two years of a retail licensee or staff of the retail
3547 licensee that is made on the basis of:

3548 (i) pornographic and harmful materials:

3549 (A) that violate ~~[Title 76, Chapter 10, Part 12, Pornographic and Harmful~~

3550 ~~Materials and Performances]~~ Title 76, Chapter 5c, Pornographic and Harmful

3551 Materials and Performances; and

3552 (B) if the violation occurs on the licensed premises;

3553 (ii) prostitution;

3554 (iii) engaging in or permitting gambling, as defined and proscribed in ~~[Title 76,~~

3555 ~~Chapter 10, Part 11, Gambling]~~ Title 76, Chapter 9, Part 14, Gambling, on the

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- 3556 licensed premises;
- 3557 (iv) having any fringe gaming device, video gaming device, or gambling device or
3558 record as defined in Section [~~76-10-1101~~] 76-9-1401 on the licensed premises;
- 3559 (v) on the licensed premises engaging in or permitting a contest, game, gaming
3560 scheme, or gaming device that requires the risking of something of value for a
3561 return or for an outcome when the return or outcome is based upon an element of
3562 chance, excluding the playing of an amusement device that confers only an
3563 immediate and unrecorded right of replay not exchangeable for value;
- 3564 (vi) a disturbance of the peace that occurs on the licensed premises; or
3565 (vii) disorderly conduct that occurs on the licensed premises; or
- 3566 (e) three or more adjudicated violations of this title within the last two years by a retail
3567 licensee or by staff of the retail licensee that result in a criminal citation or an
3568 administrative referral to the department relating to:
- 3569 (i) the sale, offer for sale, or furnishing of an alcoholic product to a minor;
3570 (ii) the sale, offer for sale, or furnishing of an alcoholic product to a person actually,
3571 apparently, or obviously intoxicated;
- 3572 (iii) the sale, offer for sale, or furnishing of an alcoholic product after the lawful
3573 hours for the sale or furnishing; or
- 3574 (iv) acts or conduct on the licensed premises contrary to the public welfare and
3575 morals involving lewd acts or lewd entertainment prohibited by this title.
- 3576 (2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership,
3577 corporation, or limited liability company, a conviction under Subsection (1)(c) includes
3578 a conviction of any of the following for an offense described in Subsection (1)(c):
- 3579 (a) a partner;
3580 (b) a managing agent;
3581 (c) a manager;
3582 (d) an officer;
3583 (e) a director;
3584 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of a
3585 corporate retail licensee; or
3586 (g) a member who owns at least 20% of a limited liability company retail licensee.

3587 Section 42. Section **32B-4-423** is amended to read:

3588 **32B-4-423 . Immunity regarding alcohol consumption offenses when seeking**
3589 **emergency aid for another person.**

3590 (1) A law enforcement officer may not cite or arrest a person solely because of a person's
3591 violation of a provision under Subsection (2) if the officer came into contact with the
3592 person because:

- 3593 (a) the person had requested or acted in concert with another person to request
3594 emergency medical assistance for a third party who reasonably appeared to be in
3595 need of medical care due to the consumption of alcohol;
- 3596 (b) the officer was responding to the request for emergency medical assistance;
- 3597 (c) the person provided to the officer the person's name and identifying information as
3598 requested by the officer;
- 3599 (d) the person remained at the location where the third party was located until
3600 emergency medical response personnel arrived at the location; and
- 3601 (e) the person cooperated with the emergency medical assistance personnel and law
3602 enforcement officers at the location.

3603 (2) Offenses referred to in Subsection (1) are violations of:

- 3604 (a) Section 32B-4-403 regarding the unlawful sale, offer for sale, or furnishing of
3605 alcohol to a minor;
- 3606 (b) Subsection 32B-4-409(1) regarding the unlawful purchase, possession, or
3607 consumption of alcohol by a minor; and
- 3608 (c) Subsection [76-9-701(1)] 76-9-110(2) regarding intoxication when the offense
3609 involves consumption of alcohol.

3610 (3) An officer who declines to cite or arrest a person while acting in good faith under
3611 Subsection (1) is not civilly liable.

3612 Section 43. Section **32B-5-301** is amended to read:

3613 **32B-5-301 . General operational requirements.**

3614 (1)(a) A retail licensee and staff of a retail licensee shall comply with this title and the
3615 rules of the commission, including the relevant chapter or part for the specific type of
3616 retail license.

3617 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

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3618 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3619 (i) a retail licensee;

3620 (ii) individual staff of a retail licensee; or

3621 (iii) both a retail licensee and staff of the retail licensee.

3622 (2)(a) If there is a conflict between this part and the relevant chapter or part for the
3623 specific type of retail license, the relevant chapter or part for the specific type of retail
3624 license governs.

3625 (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail
3626 licensee may only sell, offer for sale, furnish, or allow the consumption of an
3627 alcoholic product specifically authorized by the relevant chapter or part for the retail
3628 licensee's specific type of retail license.

3629 (c) Notwithstanding that this part or the relevant chapter or part for a specific retail
3630 licensee refers to "retail licensee," staff of the retail licensee is subject to the same
3631 requirement or prohibition.

3632 (3)(a) A retail licensee shall display in a prominent place in the licensed premises the
3633 retail license that is issued by the department.

3634 (b) A retail licensee shall display in a prominent place a sign in large letters that consists
3635 of text in the following order:

3636 (i) a header that reads: "WARNING";

3637 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
3638 can cause birth defects and permanent brain damage for the child.";

3639 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
3640 [insert most current toll-free number] with questions or for more information.";

3641 (iv) a header that reads: "WARNING"; and

3642 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is
3643 a serious crime that is prosecuted aggressively in Utah."

3644 (c)(i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different
3645 font style than the text described in Subsections (3)(b)(iv) and (v).

3646 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
3647 same font size.

3648 (d) The Department of Health shall work with the commission and department to

- 3649 facilitate consistency in the format of a sign required under this section.
- 3650 (4) A retail licensee may not on the licensed premises:
- 3651 (a) engage in or permit any form of gambling, as defined in Section ~~[76-10-1101]~~
- 3652 76-9-1401, or fringe gambling, as defined in Section ~~[76-10-1101]~~ 76-9-1401;
- 3653 (b) have any fringe gaming device, video gaming device, or gambling device or record
- 3654 as defined in Section ~~[76-10-1101]~~ 76-9-1401; or
- 3655 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 3656 the risking of something of value for a return or for an outcome when the return or
- 3657 outcome is based upon an element of chance, excluding the playing of an amusement
- 3658 device that confers only an immediate and unrecorded right of replay not
- 3659 exchangeable for value.
- 3660 (5) A retail licensee may not knowingly allow a person on the licensed premises to, in
- 3661 violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah
- 3662 Drug Paraphernalia Act:
- 3663 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;
- 3664 or
- 3665 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
- 3666 Section 58-37a-3.
- 3667 (6) Upon the presentation of credentials, at any time during which a retail licensee is open
- 3668 for the transaction of business, the retail licensee shall immediately:
- 3669 (a) admit a commissioner, authorized department employee, or law enforcement officer
- 3670 to the retail licensee's premises; and
- 3671 (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to
- 3672 inspect completely:
- 3673 (i) the entire premises of the retail licensee; and
- 3674 (ii) the records of the retail licensee.
- 3675 (7) An individual may not consume an alcoholic product on the licensed premises of a retail
- 3676 licensee on any day during the period:
- 3677 (a) beginning one hour after the time of day that the period during which a retail licensee
- 3678 may not sell, offer for sale, or furnish an alcoholic product on the licensed premises
- 3679 begins; and

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3680 (b) ending at the time specified in the relevant chapter or part for the retail licensee's
3681 specific type of retail license when the retail licensee may first sell, offer for sale, or
3682 furnish an alcoholic product on the licensed premises on that day.

3683 (8) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic
3684 product to a patron shall wear an identification badge.

3685 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3686 commission shall make rules:

3687 (a) related to the requirement described in Subsection (8); and

3688 (b) for dispensing systems and dispensing areas of restaurant licensees, bar licensees,
3689 and taverns, establishing standards:

3690 (i) in accordance with the provisions of this title; and

3691 (ii) prohibiting a dispensing system to remain at a patron's table.

3692 Section 44. Section **32B-7-202** is amended to read:

3693 **32B-7-202 . General operational requirements for off-premise beer retailer.**

3694 (1)(a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
3695 with the provisions of this title and any applicable rules made by the commission.

3696 (b) Failure to comply with this section may result in a suspension or revocation of a
3697 local license and, on or after July 1, 2018, disciplinary action in accordance with
3698 Chapter 3, Disciplinary Actions and Enforcement Act.

3699 (2)(a)(i) An off-premise beer retailer may not purchase, acquire, possess for the
3700 purpose of resale, or sell beer, except beer that the off-premise beer retailer
3701 lawfully purchases from:

3702 (A) a beer wholesaler licensee; or

3703 (B) a small brewer that manufactures the beer.

3704 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

3705 (b)(i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
3706 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only
3707 from a beer wholesaler licensee who is designated by the manufacturer to sell beer
3708 in the geographical area in which the off-premise beer retailer is located, unless an
3709 alternate wholesaler is authorized by the department to sell to the off-premise beer
3710 retailer as provided in Section 32B-13-301.

- 3711 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.
- 3712 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a
3713 container larger than two liters.
- 3714 (4)(a) Staff of an off-premise beer retailer, while on duty, may not:
- 3715 (i) consume an alcoholic product; or
- 3716 (ii) be intoxicated.
- 3717 (b) A minor may not sell beer on the licensed premises of an off-premise beer retailer
3718 unless:
- 3719 (i) the sale is done under the supervision of a person 21 years old or older who is on
3720 the licensed premises; and
- 3721 (ii) the minor is at least 16 years old.
- 3722 (5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product
3723 to:
- 3724 (a) a minor;
- 3725 (b) a person actually, apparently, or obviously intoxicated;
- 3726 (c) a known interdicted person; or
- 3727 (d) a known habitual drunkard.
- 3728 (6)(a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer
3729 shall:
- 3730 (i) display all beer accessible by and visible to a patron in no more than two locations
3731 on the retail sales floor, each of which is:
- 3732 (A) a display cabinet, cooler, aisle, floor display, or room where beer is the only
3733 beverage displayed; and
- 3734 (B) not adjacent to a display of nonalcoholic beverages, unless the location is a
3735 cooler with a door from which the nonalcoholic beverages are not accessible,
3736 or the beer is separated from the display of nonalcoholic beverages by a display
3737 of one or more nonbeverage products or another physical divider; and
- 3738 (ii) display a sign in the area described in Subsection (6)(a)(i) that:
- 3739 (A) is prominent;
- 3740 (B) is easily readable by a consumer;
- 3741 (C) meets the requirements for format established by the commission by rule; and

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3742 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages
3743 contain alcohol. Please read the label carefully."

3744 (b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer
3745 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

3746 (c) The requirements of this Subsection (6) apply to beer notwithstanding that it is
3747 labeled, packaged, or advertised as:

3748 (i) a malt cooler; or

3749 (ii) a beverage that may provide energy.

3750 (d) A violation of this Subsection (6) is an infraction.

3751 (e)(i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection
3752 (6)(a)(i) apply on and after May 9, 2017.

3753 (ii) For a beer retailer that operates two or more off-premise beer retailers, the
3754 provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

3755 (7)(a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
3756 who sells beer to a patron for consumption off the premises of the off-premise beer
3757 retailer shall wear a unique identification badge:

3758 (i) on the front of the staff's clothing;

3759 (ii) visible above the waist;

3760 (iii) bearing the staff's:

3761 (A) first or last name;

3762 (B) initials; or

3763 (C) unique identification in letters or numbers; and

3764 (iv) with the number or letters on the unique identification badge being sufficiently
3765 large to be clearly visible and identifiable while engaging in or directly
3766 supervising the retail sale of beer.

3767 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
3768 unique identification badge assigned by the off-premise beer retailer that includes the
3769 staff's:

3770 (i) full name;

3771 (ii) address; and

3772 (iii)(A) driver license number; or

- 3773 (B) similar identification number.
- 3774 (c) An off-premise beer retailer shall make available a record required to be made or
3775 maintained under this Subsection (7) for immediate inspection by:
- 3776 (i) a peace officer;
- 3777 (ii) a representative of the local authority that issues the off-premise beer retailer
3778 license; or
- 3779 (iii) for an off-premise beer retailer state license, a representative of the commission
3780 or department.
- 3781 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
3782 retailer that does not comply or require its staff to comply with this Subsection (7).
- 3783 (8)(a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a
3784 drive through window.
- 3785 (b) Subsection (8)(a) does not modify the display limitations and requirements described
3786 in Subsection (6).
- 3787 (9) An off-premise beer retailer may not on the licensed premises:
- 3788 (a) engage in or permit any form of:
- 3789 (i) gambling, as defined in Section ~~[76-10-1101]~~ 76-9-1401; or
- 3790 (ii) fringe gambling, as defined in Section ~~[76-10-1101]~~ 76-9-1401;
- 3791 (b) have any fringe gaming device, video gaming device, or gambling device or record
3792 as defined in Section ~~[76-10-1101]~~ 76-9-1401; or
- 3793 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3794 the risking of something of value for a return or for an outcome when the return or
3795 outcome is based upon an element of chance, excluding the playing of an amusement
3796 device that confers only an immediate and unrecorded right of replay not
3797 exchangeable for value.
- 3798 (10) An off-premise beer retailer may not knowingly allow a person on the licensed
3799 premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or
3800 Chapter 37a, Utah Drug Paraphernalia Act:
- 3801 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;
3802 or
- 3803 (b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in

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3804 Section 58-37a-3.

3805 (11) An off-premise beer retailer may not sell, offer for sale, or furnish a beer that is
3806 intended to be frozen and consumed in a manner other than as a beverage, including beer
3807 in the form of a freeze pop, popsicle, ice cream, or sorbet.

3808 Section 45. Section **32B-9-204** is amended to read:

3809 **32B-9-204 . General operational requirements for an event permit.**

3810 (1)(a) An event permittee and a person involved in the storage, sale, offer for sale, or
3811 furnishing of an alcoholic product at an event for which an event permit is issued,
3812 shall comply with this title and rules of the commission.

3813 (b) Failure to comply as provided in Subsection (1)(a):

3814 (i) may result in:

3815 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
3816 Enforcement Act, against:

3817 (I) an event permittee;

3818 (II) a person involved in the storage, sale, offer for sale, or furnishing of an
3819 alcoholic product at the event; or

3820 (III) any combination of the persons listed in this Subsection (1)(b);

3821 (B) immediate revocation of the event permit;

3822 (C) forfeiture of a bond; or

3823 (D) immediate seizure of an alcoholic product present at the event; and

3824 (ii) if the event permit is revoked, disqualifies the event permittee from applying for
3825 an event permit for a period of three years from the date of revocation of the event
3826 permit.

3827 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
3828 permittee after an event if forfeiture proceedings are not instituted under Section
3829 32B-4-206.

3830 (2)(a) If there is a conflict between this part and the relevant part under this chapter for
3831 the specific type of special use permit held by the special use permittee, the relevant
3832 part governs.

3833 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
3834 event permittee may only sell, offer for sale, or furnish an alcoholic product specified

- 3835 in the relevant part under this chapter for the type of event permit that is held by the
3836 event permittee.
- 3837 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
3838 event permit held by an event permittee refers to "event permittee," a person involved
3839 in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event
3840 for which the event permit is issued is subject to the same requirement or prohibition.
- 3841 (3) An event permittee shall display a copy of the event permit in a prominent place in the
3842 area in which an alcoholic product is sold, offered for sale, furnished, and consumed.
- 3843 (4) An event permittee may not on the premises of the event:
- 3844 (a) engage in or allow any form of gambling, as defined in Section ~~[76-10-1101]~~
3845 76-9-1401, or fringe gambling, as defined in Section ~~[76-10-1101]~~ 76-9-1401;
- 3846 (b) have any fringe gaming device, video gaming device, or gambling device or record
3847 as defined in Section ~~[76-10-1101]~~ 76-9-1401; or
- 3848 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3849 the risking of something of value for a return or for an outcome when the return or
3850 outcome is based upon an element of chance, excluding the playing of an amusement
3851 device that confers only an immediate and unrecorded right of replay not
3852 exchangeable for value.
- 3853 (5) An event permittee may not knowingly allow a person at an event to, in violation of
3854 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
3855 Paraphernalia Act:
- 3856 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;
3857 or
- 3858 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3859 Section 58-37a-3.
- 3860 (6) An event permittee may not sell, offer for sale, or furnish beer except beer purchases
3861 from:
- 3862 (a) a beer wholesaler licensee;
- 3863 (b) a beer retailer; or
- 3864 (c) a small brewer.
- 3865 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the consumption

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3866 of an alcoholic product purchased for an event in a location other than that described in
3867 the application and designated on the event permit unless the event permittee first
3868 applies for and receives approval from the director, with the approval of the
3869 Compliance, Licensing, and Enforcement Subcommittee, for a change of location.

3870 (8)(a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or furnish
3871 beer for on-premise consumption:

3872 (i) in an open original container; and

3873 (ii) in a container on draft.

3874 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
3875 Subsection (8)(a):

3876 (i) in a size of container that exceeds two liters; or

3877 (ii) to an individual patron in a size of container that exceeds one liter.

3878 (9)(a) An event permittee may not sell or offer for sale an alcoholic product at less than
3879 the cost of the alcoholic product to the event permittee.

3880 (b) An event permittee may not sell an alcoholic product at a discount price on any date
3881 or at any time.

3882 (c) An event permittee may not sell or offer for sale an alcoholic product at a price that
3883 encourages overconsumption or intoxication.

3884 (d) An event permittee may not sell or offer for sale an alcoholic product at a special or
3885 reduced price for only certain hours of the day of an event.

3886 (e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic
3887 product at the price of a single alcoholic product.

3888 (f) An event permittee, or a person operating, selling, offering, or furnishing an alcoholic
3889 product under an event permit, may not sell, offer for sale, or furnish an indefinite or
3890 unlimited number of alcoholic products during a set period for a fixed price, unless:

3891 (i) the alcoholic product is served to a patron at a seated event;

3892 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
3893 furnished; and

3894 (iii) no person advertises that at the event a person may be sold or furnished an
3895 indefinite or unlimited number of alcoholic products during a set period for a
3896 fixed price.

- 3897 (g) An event permittee may not engage in a public promotion involving or offering a
3898 free alcoholic product to the general public.
- 3899 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:
- 3900 (a) a minor;
- 3901 (b) a person actually, apparently, or obviously intoxicated;
- 3902 (c) a known interdicted person; or
- 3903 (d) a known habitual drunkard.
- 3904 (11)(a) An alcoholic product is considered under the control of the event permittee
3905 during an event.
- 3906 (b) A patron at an event may not bring an alcoholic product onto the premises of the
3907 event.
- 3908 (12) An event permittee may not permit a patron to carry from the premises an open
3909 container that:
- 3910 (a) is used primarily for drinking purposes; and
- 3911 (b) contains an alcoholic product.
- 3912 (13)(a) A person involved in the storage, sale, or furnishing of an alcoholic product at
3913 an event is considered under the supervision and direction of the event permittee.
- 3914 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at
3915 an event may not, while on duty:
- 3916 (i) consume an alcoholic product; or
- 3917 (ii) be intoxicated.
- 3918 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an event.
- 3919 (15) The location specified in an event permit may not be changed without prior written
3920 approval of the commission.
- 3921 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or attempt in
3922 any way to dispose of the event permit to another person whether for monetary gain or
3923 not.
- 3924 (17)(a) An event permittee may not sell, offer for sale, furnish, or allow the
3925 consumption of an alcoholic product during a period that:
- 3926 (i) begins at 1 a.m.; and
- 3927 (ii) ends at 9:59 a.m.

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3928 (b) This Subsection (17) does not preclude a local authority from being more restrictive
3929 with respect to the hours of sale, offer for sale, furnishing, or consumption of an
3930 alcoholic product at an event.

3931 (18) A patron may have no more than one alcoholic product of any kind at a time before the
3932 patron.

3933 (19)(a) An event permittee shall display, in a prominent place, a sign in large letters that
3934 consists of text in the following order:

3935 (i) a header that reads: "WARNING";

3936 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
3937 can cause birth defects and permanent brain damage for the child.";

3938 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
3939 [insert most current toll-free number] with questions or for more information.";

3940 (iv) a header that reads: "WARNING"; and

3941 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is
3942 a serious crime that is prosecuted aggressively in Utah."

3943 (b)(i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different
3944 font style than the text described in Subsections (19)(a)(iv) and (v).

3945 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the
3946 same font size.

3947 (c) The Department of Health shall work with the commission and department to
3948 facilitate consistency in the format of a sign required under this section.

3949 Section 46. Section **34-45-102** is amended to read:

3950 **34-45-102 . Definitions.**

3951 As used in this chapter:

3952 (1) "Firearm" has the same meaning as provided in Section [~~76-10-501~~] 76-11-101.

3953 (2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

3954 (3) "Person" means an individual, property owner, landlord, tenant, employer, business
3955 entity, or other legal entity.

3956 Section 47. Section **34-45-107** is amended to read:

3957 **34-45-107 . Exemptions -- Limitations on chapter -- School premises --**

3958 **Government entities -- Religious organizations -- Single family detached residential**

3959 **units.**

3960 (1)(a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the
3961 provisions of this chapter.

3962 (b) Possession of a firearm on or about school premises is subject to the provisions of
3963 Section [~~76-10-505.5~~] 76-11-204.

3964 (2) Government entities, including a local authority or state entity, are subject to the
3965 requirements of Title 53, Chapter 5a, Firearm Laws, but are otherwise exempt from the
3966 provisions of this chapter.

3967 (3) Religious organizations, including religious organizations acting as an employer, are
3968 exempt from, and are not subject to the provisions of this chapter.

3969 (4) Owner-occupied single family detached residential units and tenant-occupied single
3970 family detached residential units are exempt from the provisions of this chapter.

3971 (5) A person who is subject to federal law that specifically forbids the presence of a firearm
3972 on property designated for motor vehicle parking, or a person who is subject to Section
3973 550 of the United States Department of Homeland Security Appropriations Act of 2007,
3974 Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt
3975 from Section 34-45-103 if:

3976 (a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a)
3977 would pose an undue burden on the person; and

3978 (b) the person files a statement with the attorney general citing the federal law that
3979 forbids the presence of a firearm and detailing the reasons why providing alternative
3980 parking or a storage location poses an undue burden.

3981 (6) A person who is subject to Section 550 of the United States Department of Homeland
3982 Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in
3983 accordance with that section is exempt from this chapter if:

3984 (a) the person has attempted to provide alternative parking or a storage location in
3985 accordance with Subsection 34-45-103(2)(a);

3986 (b) the secretary of the federal Department of Homeland Security notifies the person that
3987 the provision of alternative parking or a storage location causes the person to be out
3988 of compliance with Section 550 of the United States Department of Homeland
3989 Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in

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3990 accordance with that section and the person may be subject to punitive measures; and
3991 (c) the person files a detailed statement with the attorney general notifying the attorney
3992 general of the facts under Subsections (6)(a) and (b).

3993 Section 48. Section **34-52-201** is amended to read:

3994 **34-52-201 . Public employer requirements.**

3995 (1) Except as provided in Subsections (3) and (6), a public employer may not:

3996 (a) exclude an applicant from an initial interview because of:

3997 (i) a past criminal conviction or juvenile adjudication; or

3998 (ii) if the applicant is a mental health professional applicant, an arrest for an offense
3999 that occurred before the applicant was 18 years old;

4000 (b) make an inquiry related to an applicant's expunged criminal or juvenile delinquency
4001 history;

4002 (c) when making a hiring decision regarding a mental health professional applicant,
4003 consider:

4004 (i) an arrest for an offense that occurred before the mental health professional
4005 applicant was 18 years old;

4006 (ii) an arrest not followed by a criminal conviction or juvenile adjudication;

4007 (iii) a juvenile adjudication; or

4008 (iv) a past criminal conviction if:

4009 (A) the sentence for the criminal conviction is terminated; and

4010 (B) the mental health professional applicant was not incarcerated for the past
4011 criminal conviction or the mental health professional applicant's incarceration
4012 for the past criminal conviction ended at least three years before the day on
4013 which the mental health professional applicant applied for employment; or

4014 (d) deny a mental health professional applicant employment based on a past criminal
4015 conviction that does not bear a direct relationship to the mental health professional
4016 applicant's ability to safely or competently perform the duties of employment.

4017 (2) A public employer excludes an applicant from an initial interview under Subsection (1)
4018 if the public employer:

4019 (a) requires an applicant to disclose a criminal conviction or juvenile adjudication:

4020 (i) on an employment application;

- 4021 (ii) before an initial interview; or
- 4022 (iii) if no interview is conducted, before making a conditional offer of employment; or
- 4023 (b) requires an applicant who is a mental health professional applicant to disclose an
- 4024 arrest for an offense that occurred before the applicant was 18 years old:
- 4025 (i) on an employment application;
- 4026 (ii) before an initial interview; or
- 4027 (iii) if no interview is conducted, before making a conditional offer of employment.
- 4028 (3) A public employer may not deny a mental health professional applicant employment
- 4029 that requires the mental health professional applicant to provide substance use treatment
- 4030 based on:
- 4031 (a) the mental health professional applicant's participation in substance use treatment; or
- 4032 (b) a past criminal conviction for a nonviolent drug offense if:
- 4033 (i) the sentence for the criminal conviction is terminated; and
- 4034 (ii)(A) the mental health professional applicant was not incarcerated for the past
- 4035 criminal conviction; or
- 4036 (B) the mental health professional applicant's incarceration for the past criminal
- 4037 conviction ended at least three years before the day on which the mental health
- 4038 professional applicant applied for employment.
- 4039 (4) An applicant seeking employment from a public employer may answer a question
- 4040 related to an expunged criminal or juvenile delinquency record as though the action
- 4041 underlying the expunged criminal or juvenile delinquency record never occurred.
- 4042 (5) Except as provided in Subsections (1) through (3), this section does not prevent a public
- 4043 employer from:
- 4044 (a) asking an applicant for information about an applicant's criminal conviction or
- 4045 juvenile delinquency history during an initial interview or after an initial interview; or
- 4046 (b) considering an applicant's criminal conviction or juvenile delinquency history when
- 4047 making a hiring decision.
- 4048 (6)(a) Subsections (1) through (4) do not apply:
- 4049 (i) if federal, state, or local law, including corresponding administrative rules,
- 4050 requires the consideration of an applicant's criminal conviction or juvenile
- 4051 delinquency history;

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- 4052 (ii) to a public employer that is a law enforcement agency;
- 4053 (iii) to a public employer that is part of the criminal or juvenile justice system;
- 4054 (iv) to a public employer seeking a nonemployee volunteer;
- 4055 (v) to a public employer that works with children or vulnerable adults;
- 4056 (vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;
- 4057 (vii) to the State Tax Commission;
- 4058 (viii) to a public employer whose primary purpose is performing financial or
- 4059 fiduciary functions; or
- 4060 (ix) to a public transit district hiring or promoting an individual for a safety sensitive
- 4061 position described in Section 17B-2a-825.
- 4062 (b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:
- 4063 (i) a violent felony as defined in Section 76-3-203.5; or
- 4064 (ii) a felony related to a criminal sexual act under:
- 4065 (A) [-]Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section
- 4066 76-5-417, 76-5-419, or 76-5-420; or
- 4067 (B) [-]Title 76, Chapter 5b, Sexual Exploitation Act.
- 4068 (c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a
- 4069 public employer.
- 4070 Section 49. Section **34A-5-114** is amended to read:
- 4071 **34A-5-114 . Limitations on enforceability of nondisclosure and**
- 4072 **non-disparagement clauses -- Retaliation prohibited.**
- 4073 (1) As used in this section:
- 4074 (a) "Confidentiality clause" means a nondisclosure clause or a non-disparagement clause.
- 4075 (b) "Employee" means a current or a former employee.
- 4076 (c) "Nondisclosure clause" means an agreement between an employee and employer that:
- 4077 (i) prevents, or has the effect of preventing, an employee from disclosing or
- 4078 discussing:
- 4079 (A) sexual assault;
- 4080 (B) allegations of sexual assault;
- 4081 (C) sexual harassment; or
- 4082 (D) allegations of sexual harassment.

- 4083 (d) "Non-disparagement clause" means an agreement between an employee and
4084 employer that prohibits, or has the effect of prohibiting, an employee from making a
4085 negative statement that is:
4086 (i) about the employer; and
4087 (ii) related to:
4088 (A) a claim of sexual assault or sexual harassment;
4089 (B) a sexual assault dispute; or
4090 (C) a sexual harassment dispute.
- 4091 (e) "Post-employment restrictive covenant" means the same as that term is defined in
4092 Section 34-51-102.
- 4093 (f) "Proprietary information" means an employer's business plan or customer
4094 information.
- 4095 (g) "Retaliate" means taking an adverse action against an employee because the
4096 employee made an allegation of sexual harassment or assault, including:
4097 (i) discharge;
4098 (ii) suspension;
4099 (iii) demotion; or
4100 (iv) discrimination in the terms, conditions, or privileges of employment.
- 4101 (h) "Sexual assault" means:
4102 (i) conduct that would constitute a violation of 18 U.S.C. Secs. 2241 through 2244; or
4103 (ii) criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, not
4104 including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
- 4105 (i) "Sexual assault dispute" means a dispute between an employer and the employer's
4106 employee relating to alleged sexual assault.
- 4107 (j) "Sexual harassment" means conduct that is a violation of:
4108 (i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or
4109 (ii) Subsection 34A-5-106(1)(a)(i) prohibiting harassment on the basis of sex, sexual
4110 orientation, or gender.
- 4111 (k) "Sexual harassment dispute" means a dispute between an employer and the
4112 employer's employee relating to alleged sexual harassment.
- 4113 (2)(a) A confidentiality clause regarding sexual misconduct, as a condition of

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- 4114 employment, is against public policy and is void and unenforceable.
- 4115 (b) After an employee makes an allegation of sexual harassment or sexual assault, an
4116 employer of any sized business, regardless of Subsection 34-5-102(1)(i)(D):
- 4117 (i) may not retaliate against the employee because the employee made an allegation
4118 of sexual harassment or assault; or
- 4119 (ii) may not retaliate based on an employee's refusal to enter into a confidentiality
4120 clause or an employment contract that, as a condition of employment, contains a
4121 confidentiality clause.
- 4122 (c) An employee may, within three business days after the day on which the employee
4123 agrees to a settlement agreement that includes a confidentiality clause regarding
4124 sexual misconduct, withdraw from the settlement agreement.
- 4125 (3) An employer who attempts to enforce a confidentiality clause in violation of this section:
- 4126 (a) is liable for all costs, including reasonable attorney fees, resulting from legal action
4127 to enforce the confidentiality clause; and
- 4128 (b) is not entitled to monetary damages resulting from a breach of a confidentiality
4129 clause.
- 4130 (4) This section does not:
- 4131 (a) prohibit an agreement between an employee who alleges sexual assault or sexual
4132 harassment and an employer from containing a nondisclosure clause, a
4133 non-disparagement clause, or any other clause prohibiting disclosure of:
- 4134 (i) the amount of a monetary settlement; or
- 4135 (ii) at the request of the employee, facts that could reasonably lead to the
4136 identification of the employee;
- 4137 (b) prohibit an employer from requiring an employee to:
- 4138 (i) sign a post-employment restrictive covenant; or
- 4139 (ii) agree not to disclose an employer's non-public trade secrets, proprietary
4140 information, or confidential information that does not involve illegal acts;
- 4141 (c) authorize an employee to:
- 4142 (i) disclose data otherwise protected by law or legal privilege; or
- 4143 (ii) knowingly make statements or disclosures that are false or made with reckless
4144 disregard of the truth;

- 4145 (d) prohibit an employee from discussing sexual misconduct or allegations of sexual
4146 misconduct in a civil or criminal case when subpoenaed if the sexual misconduct or
4147 allegations of sexual misconduct are against the individual whom the employee
4148 alleged engaged in sexual misconduct;
- 4149 (e) permit a disclosure that would violate state or federal law; or
- 4150 (f) limit other grounds that may exist at law or in equity for the unenforceability of a
4151 confidentiality clause.

4152 Section 50. Section **41-1a-1008** is amended to read:

4153 **41-1a-1008 . Criminal penalty for violation.**

- 4154 (1) Except as provided in Subsection (2) or unless otherwise provided, it is a class A
4155 misdemeanor to knowingly violate Sections 41-1a-1001 through 41-1a-1006.
- 4156 (2) Any owner, who is not a manufacturer, dealer, motor vehicle auction, or consignor to a
4157 motor vehicle auction not licensed under Section 41-3-201, who knowingly or
4158 intentionally conceals, removes, destroys, or alters a disclosure statement or a certificate
4159 of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is
4160 guilty of a:
- 4161 (a) class A misdemeanor; or
- 4162 (b) third degree felony if the person has previously been convicted two or more times of
4163 knowingly or intentionally concealing, removing, destroying, or altering a disclosure
4164 statement or a certificate of title branded under Section 41-3-201 or Sections
4165 41-1a-1004 through 41-1a-1005.3.
- 4166 (3) Criminal penalties under this chapter are not exclusive, but are in addition to those
4167 under Section [~~76-10-1801~~] 76-6-525.
- 4168 (4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section
4169 41-1a-1005.3 shall be a separate offense.

4170 Section 51. Section **41-3-413** is amended to read:

4171 **41-3-413 . Criminal penalties -- Nonexclusive.**

- 4172 (1) Knowing or intentional concealment, removal, destruction, or alteration of a disclosure
4173 statement or of a certificate of title branded under Section 41-1a-522 is a second degree
4174 felony.
- 4175 (2) Criminal penalties under this chapter are not exclusive, but are in addition to those

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4176 under Section ~~[76-10-1801]~~ 76-6-525.

4177 (3) The remedies provided in Sections 41-3-410 through this section are not exclusive but
4178 are in addition to any other remedies provided by law.

4179 Section 52. Section **45-2-11**, which is renumbered from Section 76-9-504 is renumbered
4180 and amended to read:

4181 **[76-9-504] 45-2-11 . Fair reporting privilege of newspaper or broadcasting station**
4182 **personnel as to public official proceedings -- Privilege as to defamatory matter not**
4183 **subject to censorship.**

4184 ~~[No reporter, editor, or proprietor of any newspaper, and no owner, licensee, or~~
4185 ~~operator of a visual or sound radio broadcasting station, or network of stations, nor the~~
4186 ~~agents or employees of a newspaper or broadcasting station, is liable to any prosecution~~
4187 ~~for a fair and true report or broadcast of any judicial, legislative, or other public official~~
4188 ~~proceedings, or of any statement, speech, argument, or debate in course of the same,~~
4189 ~~except upon proof of malice in making the report, which shall not be implied from the~~
4190 ~~mere fact of publication. In no event shall any owner, licensee, or operator of a visual or~~
4191 ~~sound radio broadcasting station or network of stations, or the agents or employees~~
4192 ~~thereof, be liable for prosecution for any defamatory matter or statement published or~~
4193 ~~uttered in such radio or television broadcast where the publication cannot be censored by~~
4194 ~~reason of the provisions of federal statute or the regulations of the federal~~
4195 ~~communications commission.]~~

4196 (1) Except as provided in Subsection (2), the following persons may not be prosecuted for a
4197 fair and true report or broadcast of a judicial, legislative, or other public official
4198 proceeding, or of a statement, speech, argument, or debate related to the judicial,
4199 legislative, or other public official proceeding:

4200 (a) a reporter, editor, or proprietor of a newspaper;

4201 (b) an owner, a licensee, or an operator of a visual sound radio broadcasting station or
4202 network of stations; or

4203 (c) an agent or employee of a newspaper or broadcasting station.

4204 (2) Notwithstanding Subsection (1), a person listed in Subsection (1)(a), (b), and (c) may be
4205 prosecuted for making a report described in Subsection (1) if there is proof the person
4206 acted with malice in making the report, which may not be implied from the mere fact of

4207 publication.

4208 (3) An owner, licensee, or operator of a visual or sound radio broadcasting station or
4209 network of stations, or an agent or employee of a sound radio broadcasting station or
4210 network of stations, may not be prosecuted for a defamatory matter or statement
4211 published or uttered in a radio or television broadcast if the publication cannot be
4212 censored by reason of the provisions of a federal statute or a regulation issued by the
4213 Federal Communications Commission.

4214 Section 53. Section **45-2-12**, which is renumbered from Section 76-9-506 is renumbered
4215 and amended to read:

4216 **~~[76-9-506]~~ 45-2-12 . Privilege as to communications between interested persons.**

4217 (1) A communication made to a person interested in the communication by one who is
4218 also interested, or who stands in a relation to the former as to afford a reasonable ground
4219 for supposing his motive innocent, is not presumed to be malicious, and is a privileged
4220 communication.

4221 (2) Libelous remarks or comments connected with a matter privileged by Subsection (1)
4222 receive no privilege by reason of the libelous remarks or comments being so connected.

4223 Section 54. Section **45-2-13**, which is renumbered from Section 76-9-509 is renumbered
4224 and amended to read:

4225 **~~[76-9-509]~~ 45-2-13 . Conveying false or libelous material to newspaper or broadcasting**
4226 **stations.**

4227 [~~Any~~] A person who willfully states, conveys, delivers, or transmits, by any
4228 means[~~whatsoever~~], to the manager, editor, publisher, reporter, or agent of any radio
4229 station, television station, newspaper, magazine, periodical, or serial for publication[
4230 ~~therein~~], any false or libelous statement concerning any person, and thereby secures
4231 actual publication[~~of the same~~], is guilty of a class B misdemeanor.

4232 Section 55. Section **47-3-305** is amended to read:

4233 **47-3-305 . Exceptions and prohibitions.**

4234 (1) This part does not apply to:

4235 (a) shooting ranges that are otherwise open to the public;

4236 (b) shooting ranges that are operated as a public shooting range staffed by and operated
4237 by Division of Wildlife Resources;

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- 4238 (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake
4239 International Airport;
- 4240 (d) Department of Corrections ranges; and
- 4241 (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local
4242 public safety agency.
- 4243 (2) Firearms may not be allowed in a school building, except under the provision of Section [
4244 ~~76-10-505.5~~] 76-11-204, unless there is an outdoor entrance to the shooting range and the
4245 most direct access to the range is used. An outdoor entrance to a shooting range may not
4246 be blocked by fences, structures, or gates for the purpose of blocking the outdoor
4247 entrance.
- 4248 (3) Only air guns may be used in public ranges where the ventilation systems do not meet
4249 current OSHA standards as applied to the duration of exposure of the participants. For
4250 the purposes of this part, an air gun does not include larger caliber pneumatic weapons,
4251 paintball guns, or air shotguns.
- 4252 (4) Group range use is a lawful, approved activity under Subsection [~~76-10-505.5(4)(a)~~]
4253 76-11-204(4)(a).
- 4254 Section 56. Section **51-9-203** is amended to read:
- 4255 **51-9-203 . Requirements for tobacco and electronic cigarette programs.**
- 4256 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,
4257 cessation, or control program, an organization, whether private, governmental, or
4258 quasi-governmental, shall:
- 4259 (a) submit a request to the Department of Health and Human Services containing the
4260 following information:
- 4261 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
4262 sound management and periodic evaluation of the campaign's relevance to the
4263 intended audience, particularly in campaigns directed toward youth, including
4264 audience awareness of the campaign and recollection of the main message;
- 4265 (ii) for school-based education programs to prevent and reduce youth smoking, the
4266 request shall describe how the program will be effective in preventing and
4267 reducing youth smoking;
- 4268 (iii) for community-based programs to prevent and reduce smoking, the request shall

- 4269 demonstrate that the proposed program:
- 4270 (A) has a comprehensive strategy with a clear mission and goals;
- 4271 (B) provides for committed, caring, and professional leadership; and
- 4272 (C) if directed toward youth:
- 4273 (I) offers youth-centered activities in youth accessible facilities;
- 4274 (II) is culturally sensitive, inclusive, and diverse;
- 4275 (III) involves youth in the planning, delivery, and evaluation of services that
- 4276 affect them; and
- 4277 (IV) offers a positive focus that is inclusive of all youth; and
- 4278 (iv) for enforcement, control, and compliance program, the request shall demonstrate
- 4279 that the proposed program can reasonably be expected to reduce the extent to
- 4280 which tobacco products and electronic cigarette products, as those terms are
- 4281 defined in Section [~~76-10-101~~] 76-9-1101, are available to individuals under 21
- 4282 years old;
- 4283 (b) agree, by contract, to file an annual written report with the Department of Health and
- 4284 Human Services that contains the following:
- 4285 (i) the amount funded;
- 4286 (ii) the amount expended;
- 4287 (iii) a description of the program or campaign and the number of adults and youth
- 4288 who participated;
- 4289 (iv) specific elements of the program or campaign meeting the applicable criteria set
- 4290 forth in Subsection (1)(a); and
- 4291 (v) a statement concerning the success and effectiveness of the program or campaign;
- 4292 (c) agree, by contract, to not use any funds received under this part directly or indirectly,
- 4293 to:
- 4294 (i) engage in any lobbying or political activity, including the support of, or opposition
- 4295 to, candidates, ballot questions, referenda, or similar activities; or
- 4296 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except
- 4297 to enforce:
- 4298 (A) the provisions of the Master Settlement Agreement;
- 4299 (B) Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and

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- 4300 Nicotine Products;
- 4301 (C) Sections 26B-7-514 through 26B-7-520; and
- 4302 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 4303 (d) agree, by contract, to repay the funds provided under this part if the organization:
- 4304 (i) fails to file a timely report as required by Subsection (1)(b); or
- 4305 (ii) uses any portion of the funds in violation of Subsection (1)(c).
- 4306 (2) The Department of Health and Human Services shall review and evaluate the success
- 4307 and effectiveness of any program or campaign that receives funding pursuant to a
- 4308 request submitted under Subsection (1). The review and evaluation:
- 4309 (a) shall include a comparison of annual smoking trends;
- 4310 (b) may be conducted by an independent evaluator; and
- 4311 (c) may be paid for by funds appropriated from the account for that purpose.
- 4312 (3) An organization that fails to comply with the contract requirements set forth in
- 4313 Subsection (1) shall:
- 4314 (a) repay the state as provided in Subsection (1)(d); and
- 4315 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- 4316 (4) The attorney general shall be responsible for recovering funds that are required to be
- 4317 repaid to the state under this section.
- 4318 (5) Nothing in this section may be construed as applying to funds that are not appropriated
- 4319 under this part.
- 4320 Section 57. Section **51-9-801** is amended to read:
- 4321 **51-9-801 . Opioid Litigation Proceeds Restricted Account.**
- 4322 (1) There is created within the General Fund a restricted account known as the Opioid
- 4323 Litigation Proceeds Restricted Account.
- 4324 (2) The account consists of:
- 4325 (a) any money deposited into the account in accordance with Subsection (3);
- 4326 (b) interest earned on money in the account; and
- 4327 (c) money appropriated to the account by the Legislature.
- 4328 (3) Notwithstanding Sections 13-2-8 and [~~76-10-3114~~] 67-5-40, after reimbursement to the
- 4329 attorney general and the Department of Commerce for expenses related to the matters
- 4330 described in Subsection (3)(a) or (b), the following shall be deposited into the account:

- 4331 (a) all money received by the attorney general or the Department of Commerce as a
4332 result of any judgment, settlement, or compromise of claims pertaining to alleged
4333 violations of law related to the manufacture, marketing, distribution, or sale of
4334 opioids from a case designated as an opioid case by the attorney general in a legal
4335 services contract; and
- 4336 (b) all money received by the attorney general or the Department of Commerce as a
4337 result of any multistate judgment, settlement, or compromise of claims pertaining to
4338 alleged violations of law related to the manufacture, marketing, distribution, or sale
4339 of opioids.
- 4340 (4) Subject to appropriation by the Legislature, money in the account shall be used:
- 4341 (a) to address the effects of alleged violations of law related to the manufacture,
4342 marketing, distribution, or sale of opioids; or
- 4343 (b) if applicable, in accordance with the terms of a settlement agreement described in
4344 Subsection (3)(a) or (b) entered into by the state.
- 4345 Section 58. Section **53-2a-214** is amended to read:
- 4346 **53-2a-214 . Prohibition of restrictions on and confiscation of a firearm or**
4347 **ammunition during an emergency.**
- 4348 (1) As used in this section:
- 4349 (a)(i) "Confiscate" means for an individual in Utah to intentionally deprive another
4350 of a privately owned firearm.
- 4351 (ii) "Confiscate" does not include the taking of a firearm from an individual:
- 4352 (A) in self-defense;
- 4353 (B) possessing a firearm while the individual is committing a felony or
4354 misdemeanor; or
- 4355 (C) who may not, under state or federal law, possess the firearm.
- 4356 (b) "Firearm" has the same meaning as defined in Section ~~[76-10-501]~~ 76-11-101.
- 4357 (2) During a declared state of emergency or local emergency under this part:
- 4358 (a) neither the governor nor an agency of a governmental entity or political subdivision
4359 of the state may impose restrictions, which were not in force before the declared state
4360 of emergency, on the lawful possession, transfer, sale, transport, storage, display, or
4361 use of a firearm or ammunition; and

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- 4362 (b) an individual, while acting or purporting to act on behalf of the state or a political
4363 subdivision of the state, may not confiscate a privately owned firearm of another
4364 individual.
- 4365 (3) A law or regulation passed during a declared state of emergency that does not relate
4366 specifically to the lawful possession or use of a firearm and that has attached criminal
4367 penalties may not be used to justify the confiscation of a firearm from an individual
4368 acting in defense of self, property, or others when on:
- 4369 (a) the individual's private property; or
4370 (b) the private property of another as an invitee.
- 4371 (4)(a) An individual who has a firearm confiscated in violation of Subsection (2) may
4372 bring a civil action in a court having the appropriate jurisdiction:
- 4373 (i) for damages, in the maximum amount of \$10,000, against a person who violates
4374 Subsection (2);
4375 (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who
4376 violates Subsection (2); and
4377 (iii) for return of the confiscated firearm.
- 4378 (b) As used in this Subsection (4), "person" means an individual, the governmental
4379 entity on whose behalf the individual is acting or purporting to act, or both the
4380 individual and the governmental entity.
- 4381 (5)(a) A law enforcement officer is not subject to disciplinary action for refusing to
4382 confiscate a firearm under this section if:
- 4383 (i) ordered or directed to do so by a superior officer; and
4384 (ii) by obeying the order or direction, the law enforcement officer would be
4385 committing a violation of this section.
- 4386 (b) For purposes of this Subsection (5), disciplinary action might include:
- 4387 (i) dismissal, suspension, or demotion;
4388 (ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and
4389 (iii) any type of written or electronic indication, permanent or temporary, on the
4390 officer's personnel record of the officer's refusal to obey the unlawful order.
- 4391 (6)(a) If a law enforcement officer commits a violation of this section, the officer's
4392 liability in an action brought under Subsection (4)(a) is limited to 5% of the damages

4393 and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and
4394 convincing evidence that the officer was obeying a direct and unlawful order from a
4395 superior officer or authority.

4396 (b) The court shall assess the balance of the damages and civil penalty, the remaining
4397 95%, against the superior officer or authority who ordered or directed the
4398 confiscation in violation of this section.

4399 Section 59. Section **53-3-219** is amended to read:

4400 **53-3-219 . Suspension of minor's driving privileges.**

4401 (1) The division shall immediately suspend all driving privileges of any person upon receipt
4402 of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410,
4403 Subsection [~~76-9-701(1)~~] 76-9-110(6)(a), or Section 80-6-707.

4404 (2)(a)(i) Upon receipt of the first order suspending a person's driving privileges
4405 under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]
4406 76-9-110(6)(a), or Section 80-6-707, the division shall:

4407 (A) impose a suspension for a period of one year;

4408 (B) if the person has not been issued an operator license, deny the person's
4409 application for a license or learner's permit for a period of one year; or

4410 (C) if the person is under the age of eligibility for a driver license, deny the
4411 person's application for a license or learner's permit beginning on the date of
4412 conviction and continuing for one year beginning on the date of eligibility for a
4413 driver license.

4414 (ii) Upon receipt of the first order suspending a person's driving privileges under this
4415 section, the division shall reduce the suspension period under Subsection
4416 (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection
4417 32B-4-409(5)(b), 32B-4-410(4)(b), [~~76-9-701(4)(b)~~] 76-9-110(6)(b), or
4418 80-6-707(3)(a).

4419 (b)(i) Upon receipt of a second or subsequent order suspending a person's driving
4420 privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]
4421 76-9-110(6)(a), or Subsection 80-6-707(3)(b), the division shall:

4422 (A) impose a suspension for a period of two years;

4423 (B) if the person has not been issued an operator license or is under the age of

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4424 eligibility for a driver license, deny the person's application for a license or
4425 learner's permit for a period of two years; or
4426 (C) if the person is under the age of eligibility for a driver license, deny the
4427 person's application for a license or learner's permit beginning on the date of
4428 conviction and continuing for two years beginning on the date of eligibility for
4429 a driver license.

4430 (ii) Upon receipt of the second or subsequent order suspending a person's driving
4431 privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]
4432 76-9-110(6)(a), or Section 80-6-707, the division shall reduce the suspension
4433 period if ordered by the court in accordance with Subsection 32B-4-409(5)(c),
4434 32B-4-410(4)(c), [~~76-9-701(4)(e)~~] 76-9-110(6)(c), or 80-6-707(3)(b).

4435 (3) The Driver License Division shall subtract from any suspension or revocation period for
4436 a conviction of a violation of Section 32B-4-409 the number of days for which a license
4437 was previously suspended under Section 53-3-231, if the previous sanction was based on
4438 the same occurrence upon which the record of conviction is based.

4439 (4) After reinstatement of the license described in Subsection (1), a report authorized under
4440 Section 53-3-104 may not contain evidence of the suspension of a minor's license under
4441 this section if the minor has not been convicted of any other offense for which the
4442 suspension under Subsection (1) may be extended.

4443 Section 60. Section **53-3-220** is amended to read:

4444 **53-3-220 . Offenses requiring mandatory revocation, denial, suspension, or**
4445 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
4446 **Limited driving privileges.**

4447 (1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a,
4448 Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
4449 disqualification, the division shall deny, suspend, or disqualify the license of a person
4450 upon receiving a record of the person's conviction for:

4451 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,
4452 automobile homicide under Section 76-5-207, or automobile homicide involving
4453 using a handheld wireless communication device while driving under Section
4454 76-5-207.5;

- 4455 (ii) driving or being in actual physical control of a motor vehicle while under the
4456 influence of alcohol, any drug, or combination of them to a degree that renders the
4457 person incapable of safely driving a motor vehicle as prohibited in Section
4458 41-6a-502 or as prohibited in an ordinance that complies with the requirements of
4459 Subsection 41-6a-510(1);
- 4460 (iii) driving or being in actual physical control of a motor vehicle while having a
4461 blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited
4462 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 4463 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
4464 41, Motor Vehicles, or any other law of this state requiring the registration of
4465 motor vehicles or regulating driving on highways;
- 4466 (v) any felony under the motor vehicle laws of this state;
- 4467 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 4468 (vii) failure to stop and render aid as required under the laws of this state if a motor
4469 vehicle accident results in the death or personal injury of another;
- 4470 (viii) two charges of reckless driving, impaired driving, or any combination of
4471 reckless driving and impaired driving committed within a period of 12 months;
4472 but if upon a first conviction of reckless driving or impaired driving the judge or
4473 justice recommends suspension of the convicted person's license, the division may
4474 after a hearing suspend the license for a period of three months;
- 4475 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
4476 officer as required in Section 41-6a-210;
- 4477 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
4478 requires disqualification;
- 4479 (xi) a felony violation of Section [~~76-10-508 or 76-10-508.1~~] 76-11-207 or 76-11-208
4480 involving discharging or allowing the discharge of a firearm from a vehicle;
- 4481 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
4482 incendiary device from a vehicle in violation of Subsection [~~76-10-306(4)(b)~~]
4483 76-15-210(2)(b)(ii);
- 4484 (xiii) operating or being in actual physical control of a motor vehicle while having
4485 any measurable controlled substance or metabolite of a controlled substance in the

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- 4486 person's body in violation of Section 41-6a-517;
- 4487 (xiv) operating or being in actual physical control of a motor vehicle while having
- 4488 any measurable or detectable amount of alcohol in the person's body in violation
- 4489 of Section 41-6a-530;
- 4490 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
- 4491 violation of Section 41-6a-606;
- 4492 (xvi) operating or being in actual physical control of a motor vehicle in this state
- 4493 without an ignition interlock system in violation of Section 41-6a-518.2;
- 4494 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); or
- 4495 (xviii) two or more offenses that:
- 4496 (A) are committed within a period of one year;
- 4497 (B) are enhanced under Section 76-3-203.17; and
- 4498 (C) arose from separate incidents.
- 4499 (b) The division shall immediately revoke the license of a person upon receiving a
- 4500 record of an adjudication under Section 80-6-701 for:
- 4501 (i) a felony violation of Section [~~76-10-508 or 76-10-508.1~~] 76-11-207 or 76-11-208
- 4502 involving discharging or allowing the discharge of a firearm from a vehicle; or
- 4503 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
- 4504 incendiary device from a vehicle in violation of Subsection [~~76-10-306(4)(b)~~]
- 4505 76-15-210(2)(b)(ii).
- 4506 (c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon
- 4507 receiving a record of conviction, the division shall immediately suspend for six
- 4508 months the license of the convicted person if the person was convicted of
- 4509 violating any one of the following offenses while the person was an operator of a
- 4510 motor vehicle, and the court finds that a driver license suspension is likely to
- 4511 reduce recidivism and is in the interest of public safety:
- 4512 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 4513 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 4514 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 4515 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 4516 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

- 4517 (F) any criminal offense that prohibits possession, distribution, manufacture,
4518 cultivation, sale, or transfer of any substance that is prohibited under the acts
4519 described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy
4520 to possess, distribute, manufacture, cultivate, sell, or transfer any substance that
4521 is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).
- 4522 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate
4523 a person's driving privilege before completion of the suspension period imposed
4524 under Subsection (1)(c)(i) if the reporting court notifies the Driver License
4525 Division, in a manner specified by the division, that the defendant is participating
4526 in or has successfully completed a drug court program as defined in Section
4527 78A-5-201.
- 4528 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person
4529 is required to pay the license reinstatement fees under Subsection 53-3-105(26).
- 4530 (iv) The court shall notify the division, in a manner specified by the division, if a
4531 person fails to complete all requirements of the drug court program.
- 4532 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division
4533 shall suspend the person's driving privilege for a period of six months from the
4534 date of the notice, and no days shall be subtracted from the six-month suspension
4535 period for which a driving privilege was previously suspended under Subsection
4536 (1)(c)(i).
- 4537 (d)(i) The division shall immediately suspend a person's driver license for conviction
4538 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the
4539 division receives:
- 4540 (A) an order from the sentencing court requiring that the person's driver license be
4541 suspended; and
- 4542 (B) a record of the conviction.
- 4543 (ii) An order of suspension under this section is at the discretion of the sentencing
4544 court, and may not be for more than 90 days for each offense.
- 4545 (e)(i) The division shall immediately suspend for one year the license of a person
4546 upon receiving a record of:
- 4547 (A) conviction for the first time for a violation under Section 32B-4-411; or

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- 4548 (B) an adjudication under Section 80-6-701 for a violation under Section
4549 32B-4-411.
- 4550 (ii) The division shall immediately suspend for a period of two years the license of a
4551 person upon receiving a record of:
- 4552 (A)(I) conviction for a second or subsequent violation under Section
4553 32B-4-411; and
- 4554 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a
4555 prior conviction for a violation under Section 32B-4-411; or
- 4556 (B)(I) a second or subsequent adjudication under Section 80-6-701 for a
4557 violation under Section 32B-4-411; and
- 4558 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years
4559 of a prior adjudication under Section 80-6-701 for a violation under Section
4560 32B-4-411.
- 4561 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
- 4562 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
- 4563 (I) impose a suspension for one year beginning on the date of conviction; or
4564 (II) if the person is under the age of eligibility for a driver license, impose a
4565 suspension that begins on the date of conviction and continues for one year
4566 beginning on the date of eligibility for a driver license; or
- 4567 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
- 4568 (I) impose a suspension for a period of two years; or
4569 (II) if the person is under the age of eligibility for a driver license, impose a
4570 suspension that begins on the date of conviction and continues for two years
4571 beginning on the date of eligibility for a driver license.
- 4572 (iv) Upon receipt of the first order suspending a person's driving privileges under
4573 Section 32B-4-411, the division shall reduce the suspension period under
4574 Subsection (1)(e)(i) if ordered by the court in accordance with Subsection
4575 32B-4-411(3)(a).
- 4576 (v) Upon receipt of the second or subsequent order suspending a person's driving
4577 privileges under Section 32B-4-411, the division shall reduce the suspension
4578 period under Subsection (1)(e)(ii) if ordered by the court in accordance with

- 4579 Subsection 32B-4-411(3)(b).
- 4580 (f) The division shall immediately suspend a person's driver license for the conviction of
- 4581 an offense that is enhanced under Section 76-3-203.17 if the division receives:
- 4582 (i) an order from the sentencing court requiring the person's driver license to be
- 4583 suspended; and
- 4584 (ii) a record of the conviction.
- 4585 (2) The division shall extend the period of the first denial, suspension, revocation, or
- 4586 disqualification for an additional like period, to a maximum of one year for each
- 4587 subsequent occurrence, upon receiving:
- 4588 (a) a record of the conviction of any person on a charge of driving a motor vehicle while
- 4589 the person's license is denied, suspended, revoked, or disqualified;
- 4590 (b) a record of a conviction of the person for any violation of the motor vehicle law in
- 4591 which the person was involved as a driver;
- 4592 (c) a report of an arrest of the person for any violation of the motor vehicle law in which
- 4593 the person was involved as a driver; or
- 4594 (d) a report of an accident in which the person was involved as a driver.
- 4595 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
- 4596 driving while the person's license is denied, suspended, disqualified, or revoked, the
- 4597 person is entitled to a hearing regarding the extension of the time of denial, suspension,
- 4598 disqualification, or revocation originally imposed under Section 53-3-221.
- 4599 (4)(a) The division may extend to a person the limited privilege of driving a motor
- 4600 vehicle to and from the person's place of employment or within other specified limits
- 4601 on recommendation of the judge in any case where a person is convicted of any of
- 4602 the offenses referred to in Subsections (1) and (2) except:
- 4603 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),
- 4604 and (1)(c)(i); and
- 4605 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
- 4606 revocation, or disqualification was imposed because of a violation of Section
- 4607 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of
- 4608 Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207,
- 4609 or a criminal prohibition that the person was charged with violating as a result of a

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- 4610 plea bargain after having been originally charged with violating one or more of
4611 these sections or ordinances, unless:
- 4612 (A) the person has had the period of the first denial, suspension, revocation, or
4613 disqualification extended for a period of at least three years;
- 4614 (B) the division receives written verification from the person's primary care
4615 physician or physician assistant that:
- 4616 (I) to the physician's or physician assistant's knowledge the person has not used
4617 any narcotic drug or other controlled substance except as prescribed by a
4618 licensed medical practitioner within the last three years; and
- 4619 (II) the physician or physician assistant is not aware of any physical,
4620 emotional, or mental impairment that would affect the person's ability to
4621 operate a motor vehicle safely; and
- 4622 (C) for a period of one year prior to the date of the request for a limited driving
4623 privilege:
- 4624 (I) the person has not been convicted of a violation of any motor vehicle law in
4625 which the person was involved as the operator of the vehicle;
- 4626 (II) the division has not received a report of an arrest for a violation of any
4627 motor vehicle law in which the person was involved as the operator of the
4628 vehicle; and
- 4629 (III) the division has not received a report of an accident in which the person
4630 was involved as an operator of a vehicle.
- 4631 (b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
4632 authorized in this Subsection (4):
- 4633 (A) is limited to when undue hardship would result from a failure to grant the
4634 privilege; and
- 4635 (B) may be granted only once to any person during any single period of denial,
4636 suspension, revocation, or disqualification, or extension of that denial,
4637 suspension, revocation, or disqualification.
- 4638 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):
- 4639 (A) is limited to when the limited privilege is necessary for the person to commute
4640 to school or work; and

4641 (B) may be granted only once to any person during any single period of denial,
4642 suspension, revocation, or disqualification, or extension of that denial,
4643 suspension, revocation, or disqualification.

4644 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
4645 Commercial Driver License Act, or whose license has been revoked, suspended,
4646 cancelled, or denied under this chapter.

4647 Section 61. Section **53-3-229** is amended to read:

4648 **53-3-229 . Prohibited uses of license certificate -- Penalty.**

4649 (1) It is a class C misdemeanor for an individual to:

- 4650 (a) lend or knowingly permit the use of a license certificate issued to the individual, by
4651 another individual not entitled to the license certificate;
- 4652 (b) display or represent as the individual's own license certificate a license certificate not
4653 issued to the individual;
- 4654 (c) refuse to surrender to the division or a peace officer upon demand any license
4655 certificate issued by the division;
- 4656 (d) use a false name or give a false address in any application for a license or any
4657 renewal or duplicate of the license certificate, or to knowingly make a false
4658 statement, or to knowingly conceal a material fact or otherwise commit a fraud in the
4659 application;
- 4660 (e) display a canceled, denied, revoked, suspended, or disqualified driver license
4661 certificate as a valid driver license certificate;
- 4662 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
4663 driver license certificate issued by a governmental entity if the item is not an
4664 authentic driver license certificate issued by that governmental entity; or
- 4665 (g) alter any information on an authentic driver license certificate so that it no longer
4666 represents the information originally displayed.

4667 (2) The provisions of Subsection (1)(e) do not prohibit the use of an individual's driver
4668 license certificate as a means of personal identification.

4669 (3) It is a class A misdemeanor to knowingly:

- 4670 (a) issue a driver license certificate with false or fraudulent information;
- 4671 (b) issue a driver license certificate to an individual who is younger than 21 years old if

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4672 the driver license certificate is not distinguished as required for an individual who is
4673 younger than 21 years old under Section 53-3-207; or

4674 (c) acquire, use, display, or transfer a false or altered driver license certificate to procure
4675 a tobacco product, an electronic cigarette product, or a nicotine product as those
4676 terms are defined in Section [~~76-10-101~~] 76-9-1101.

4677 (4) An individual may not use, display, or transfer a false or altered driver license certificate
4678 to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are
4679 sold or consumed, or obtain employment that may not be obtained by a minor in
4680 violation of Section 32B-1-403.

4681 (5) It is a third degree felony if an individual's acquisition, use, display, or transfer of a false
4682 or altered driver license certificate:

4683 (a) aids or furthers the individual's efforts to fraudulently obtain goods or services; or

4684 (b) aids or furthers the individual's efforts to commit a violent felony.

4685 Section 62. Section **53-3-810** is amended to read:

4686 **53-3-810 . Prohibited uses of identification card -- Penalties.**

4687 (1) It is a class C misdemeanor to:

4688 (a) lend or knowingly permit the use of an identification card issued to the individual, by
4689 an individual not entitled to the identification card;

4690 (b) display or to represent as the individual's own identification card an identification
4691 card not issued to the individual;

4692 (c) refuse to surrender to the division or a peace officer upon demand any identification
4693 card issued by the division;

4694 (d) use a false name or give a false address in any application for an identification card
4695 or any renewal or duplicate of the identification card, or to knowingly make a false
4696 statement, or to knowingly conceal a material fact in the application;

4697 (e) display a revoked identification card as a valid identification card;

4698 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
4699 identification card issued by a governmental entity if the item is not an authentic
4700 identification card issued by that governmental entity; or

4701 (g) alter any information contained on an authentic identification card so that it no
4702 longer represents the information originally displayed.

- 4703 (2) It is a class A misdemeanor to knowingly:
4704 (a) issue an identification card with false or fraudulent information;
4705 (b) issue an identification card to an individual who is younger than 21 years old if the
4706 identification card is not distinguished as required for an individual who is younger
4707 than 21 years old under Section 53-3-806; or
4708 (c) acquire, use, display, or transfer a false or altered identification card to procure a
4709 tobacco product, an electronic cigarette product, or a nicotine product as those terms
4710 are defined in Section ~~[76-10-101]~~ 76-9-1101.

- 4711 (3) An individual may not knowingly use, display, or transfer a false or altered
4712 identification card to procure alcoholic beverages, gain admittance to a place where
4713 alcoholic beverages are sold or consumed, or obtain employment that may not be
4714 obtained by a minor in violation of Section 32B-1-403.
4715 (4) It is a third degree felony if an individual's acquisition, use, display, or transfer of a false
4716 or altered identification card:
4717 (a) aids or furthers the individual's efforts to fraudulently obtain goods or services; or
4718 (b) aids or furthers the individual's efforts to commit a violent felony.

4719 Section 63. Section **53-5-702** is amended to read:

4720 **53-5-702 . Definitions.**

4721 In addition to the definitions in Section ~~[76-10-501]~~ 76-11-101, as used in this part:

- 4722 (1) "Active duty service member" means a person on active military duty with the United
4723 States military and includes full time military active duty, military reserve active duty,
4724 and national guard military active duty service members stationed in Utah.
4725 (2) "Active duty service member spouse" means a person recognized by the military as the
4726 spouse of an active duty service member and who resides with the active duty service
4727 member in Utah.
4728 (3) "Board" means the Concealed Firearm Review Board created in Section 53-5-703.
4729 (4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
4730 within the Department of Public Safety.
4731 (5) "Commissioner" means the commissioner of the Department of Public Safety.
4732 (6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted
4733 in:

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- 4734 (a) a finding of guilt based on evidence presented to a judge or jury;
- 4735 (b) a guilty plea;
- 4736 (c) a plea of nolo contendere;
- 4737 (d) a plea of guilty or nolo contendere which is held in abeyance pending the successful
- 4738 completion of probation;
- 4739 (e) a pending diversion agreement; or
- 4740 (f) a conviction which has been reduced in accordance with Section 76-3-402.

4741 (7)(a) "School employee" means an employee of a public school district, charter school,
4742 or private school whose duties, responsibilities, or assignments require the employee
4743 to be physically present on a school's campus at least half of the days on which
4744 school is held during a school year.

4745 (b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

4746 (8) "School year" means the period of time designated by a local school board, charter
4747 school governing board, or private school as the school year for high school, middle
4748 school, or elementary school students.

4749 Section 64. Section **53-5-704** is amended to read:

4750 **53-5-704 . Bureau duties -- Permit to carry concealed firearm -- Certification for**
4751 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
4752 **suspension, or revocation -- Appeal procedure.**

4753 (1)(a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a
4754 concealed firearm for lawful self defense to an applicant who is 21 years old or older
4755 within 60 days after receiving an application, unless the bureau finds proof that the
4756 applicant is not qualified to hold a permit under Subsection (2) or (3).

4757 (b)(i) Within 90 days before the day on which a provisional permit holder under
4758 Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply
4759 under this section for a permit to carry a concealed firearm for lawful self defense.

4760 (ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within
4761 60 days after receiving an application, unless the bureau finds proof that the
4762 applicant is not qualified to hold a permit under Subsection (2) or (3).

4763 (iii) A permit issued under this Subsection (1)(b):

4764 (A) is not valid until an applicant is 21 years old; and

- 4765 (B) requires a \$10 application fee.
- 4766 (iv) A person who applies for a permit under this Subsection (1)(b) is not required to
4767 retake the firearms training described in Subsection 53-5-704(8).
- 4768 (c) The permit is valid throughout the state for five years, without restriction, except as
4769 otherwise provided by Section 53-5-710.
- 4770 (d) The provisions of Subsections [~~76-10-504(1) and (2)~~] 76-11-202(2), (3a), and (3)(b),
4771 and Section [~~76-10-505~~] 76-11-203 do not apply to an individual issued a permit
4772 under Subsection (1)(a) or (b).
- 4773 (e) Subsection (4)(a) does not apply to a nonresident:
- 4774 (i) active duty service member, who presents to the bureau orders requiring the active
4775 duty service member to report for duty in this state; or
- 4776 (ii) active duty service member's spouse, stationed with the active duty service
4777 member, who presents to the bureau the active duty service member's orders
4778 requiring the service member to report for duty in this state.
- 4779 (2)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if the
4780 applicant or permit holder:
- 4781 (i) has been or is convicted of a felony;
- 4782 (ii) has been or is convicted of a crime of violence;
- 4783 (iii) has been or is convicted of an offense involving the use of alcohol;
- 4784 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
4785 other controlled substances;
- 4786 (v) has been or is convicted of an offense involving moral turpitude;
- 4787 (vi) has been or is convicted of an offense involving domestic violence;
- 4788 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
4789 unless the adjudication has been withdrawn or reversed; and
- 4790 (viii) is not qualified to purchase and possess a firearm pursuant to Section [
4791 ~~76-10-503~~] 76-11-302 and federal law.
- 4792 (b) In determining whether an applicant or permit holder is qualified to hold a permit
4793 under Subsection (2)(a), the bureau shall consider mitigating circumstances.
- 4794 (3)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has
4795 reasonable cause to believe that the applicant or permit holder has been or is a danger

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- 4796 to self or others as demonstrated by evidence, including:
- 4797 (i) past pattern of behavior involving unlawful violence or threats of unlawful
4798 violence;
- 4799 (ii) past participation in incidents involving unlawful violence or threats of unlawful
4800 violence; or
- 4801 (iii) conviction of an offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]
4802 Title 76, Chapter 11, Weapons.
- 4803 (b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a
4804 single conviction of an infraction violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]
4805 Title 76, Chapter 11, Weapons.
- 4806 (c) In determining whether the applicant or permit holder has been or is a danger to self
4807 or others, the bureau may inspect:
- 4808 (i) expunged records of arrests and convictions of adults as provided in Section
4809 77-40a-403; and
- 4810 (ii) juvenile court records as provided in Section 78A-6-209.
- 4811 (d)(i) The bureau shall suspend a concealed firearm permit if a permit holder
4812 becomes a temporarily restricted person in accordance with Section 53-5c-301.
- 4813 (ii) Upon removal from the temporary restricted list, the permit holder's permit shall
4814 be reinstated unless:
- 4815 (A) the permit has been revoked, been suspended for a reason other than the
4816 restriction described in Subsection (3)(d)(i), or expired; or
- 4817 (B) the permit holder has become a restricted person under Section [~~76-10-503~~]
4818 76-11-302.
- 4819 (4)(a) In addition to meeting the other qualifications for the issuance of a concealed
4820 firearm permit under this section, a nonresident applicant who resides in a state that
4821 recognizes the validity of the Utah permit or has reciprocity with Utah's concealed
4822 firearm permit law shall:
- 4823 (i) hold a current concealed firearm or concealed weapon permit issued by the
4824 appropriate permitting authority of the nonresident applicant's state of residency;
4825 and
- 4826 (ii) submit a photocopy or electronic copy of the nonresident applicant's current

- 4827 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).
- 4828 (b) A nonresident applicant who knowingly and willfully provides false information to
- 4829 the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed
- 4830 firearm permit for a period of 10 years.
- 4831 (c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm
- 4832 permit that are received by the bureau after May 10, 2011.
- 4833 (d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for
- 4834 renewal of a concealed firearm permit by a nonresident.
- 4835 (5) The bureau shall issue a concealed firearm permit to a former peace officer who departs
- 4836 full-time employment as a peace officer, in an honorable manner, within five years of
- 4837 that departure if the officer meets the requirements of this section.
- 4838 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to
- 4839 provide:
- 4840 (a) the address of the applicant's permanent residence;
- 4841 (b) one recent dated photograph;
- 4842 (c) one set of fingerprints; and
- 4843 (d) evidence of general familiarity with the types of firearms to be concealed as defined
- 4844 in Subsection (8).
- 4845 (7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a
- 4846 letter of good standing from the officer's commanding officer in place of the evidence
- 4847 required by Subsection (6)(d).
- 4848 (8)(a) General familiarity with the types of firearms to be concealed includes training in:
- 4849 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
- 4850 concealed; and
- 4851 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
- 4852 self-defense, use of force by a private citizen, including use of deadly force,
- 4853 transportation, and concealment.
- 4854 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
- 4855 one of the following:
- 4856 (i) completion of a course of instruction conducted by a national, state, or local
- 4857 firearms training organization approved by the bureau;

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- 4858 (ii) certification of general familiarity by an individual who has been certified by the
4859 bureau, which may include a law enforcement officer, military or civilian firearms
4860 instructor, or hunter safety instructor; or
- 4861 (iii) equivalent experience with a firearm through participation in an organized
4862 shooting competition, law enforcement, or military service.
- 4863 (c) Instruction taken by a student under this Subsection (8) shall be in person and not
4864 through electronic means.
- 4865 (d) A person applying for a renewal permit is not required to retake the firearms training
4866 described in this Subsection 53-5-704(8) if the person:
- 4867 (i) has an unexpired permit; or
- 4868 (ii) has a permit that expired less than one year before the date on which the renewal
4869 application was submitted.
- 4870 (9)(a) An applicant for certification as a Utah concealed firearms instructor shall:
- 4871 (i) be at least 21 years old;
- 4872 (ii) be currently eligible to possess a firearm under Section [~~76-10-503~~] 76-11-302;
- 4873 (iii) have:
- 4874 (A) completed a firearm instruction training course from the National Rifle
4875 Association or another nationally recognized firearm training organization that
4876 customarily offers firearm safety and firearm law instructor training or the
4877 Department of Public Safety, Division of Peace Officer Safety Standards and
4878 Training; or
- 4879 (B) received training equivalent to one of the courses referred to in Subsection
4880 (9)(a)(iii)(A) as determined by the bureau;
- 4881 (iv) have taken a course of instruction and passed a certification test as described in
4882 Subsection (9)(c); and
- 4883 (v) possess a Utah concealed firearm permit.
- 4884 (b) An instructor's certification is valid for three years from the date of issuance, unless
4885 revoked by the bureau.
- 4886 (c)(i) In order to obtain initial certification or renew a certification, an instructor
4887 shall attend an instructional course and pass a test under the direction of the
4888 bureau.

- 4889 (ii)(A) The bureau shall provide or contract to provide the course referred to in
4890 Subsection (9)(c)(i) twice every year.
- 4891 (B) The course shall include instruction on current Utah law related to firearms,
4892 including concealed carry statutes and rules, and the use of deadly force by
4893 private citizens.
- 4894 (d)(i) Each applicant for certification under this Subsection (9) shall pay a fee of
4895 \$50.00 at the time of application for initial certification.
- 4896 (ii) The renewal fee for the certificate is \$25.
- 4897 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated
4898 credit to cover the cost incurred in maintaining and improving the instruction
4899 program required for concealed firearm instructors under this Subsection (9).
- 4900 (10) A certified concealed firearms instructor shall provide each of the instructor's students
4901 with the required course of instruction outline approved by the bureau.
- 4902 (11)(a)(i) A concealed firearms instructor shall provide a signed certificate to an
4903 individual successfully completing the offered course of instruction.
- 4904 (ii) The instructor shall sign the certificate with the exact name indicated on the
4905 instructor's certification issued by the bureau under Subsection (9).
- 4906 (iii)(A) The certificate shall also have affixed to it the instructor's official seal,
4907 which is the exclusive property of the instructor and may not be used by any
4908 other individual.
- 4909 (B) The instructor shall destroy the seal upon revocation or expiration of the
4910 instructor's certification under Subsection (9).
- 4911 (C) The bureau shall determine the design and content of the seal to include at
4912 least the following:
- 4913 (I) the instructor's name as it appears on the instructor's certification;
4914 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah,"
4915 and "my certification expires on (the instructor's certification expiration
4916 date)"; and
4917 (III) the instructor's business or residence address.
- 4918 (D) The seal shall be affixed to each student certificate issued by the instructor in
4919 a manner that does not obscure or render illegible any information or

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- 4920 signatures contained in the document.
- 4921 (b) The applicant shall provide the certificate to the bureau in compliance with
4922 Subsection (6)(d).
- 4923 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a
4924 concealed firearms instructor if it has reason to believe the applicant or the instructor has:
4925 (a) become ineligible to possess a firearm under Section [~~76-10-503~~] 76-11-302 or
4926 federal law; or
4927 (b) knowingly and willfully provided false information to the bureau.
- 4928 (13) An applicant for certification or a concealed firearms instructor has the same appeal
4929 rights as described in Subsection (16).
- 4930 (14) In providing instruction and issuing a permit under this part, the concealed firearms
4931 instructor and the bureau are not vicariously liable for damages caused by the permit
4932 holder.
- 4933 (15) An individual who knowingly and willfully provides false information on an
4934 application filed under this part is guilty of a class B misdemeanor, and the application
4935 may be denied, or the permit may be suspended or revoked.
- 4936 (16)(a) In the event of a denial, suspension, or revocation of a permit, the applicant or
4937 permit holder may file a petition for review with the board within 60 days from the
4938 date the denial, suspension, or revocation is received by the applicant or permit
4939 holder by certified mail, return receipt requested.
- 4940 (b) The bureau's denial of a permit shall be in writing and shall include the general
4941 reasons for the action.
- 4942 (c) If an applicant or permit holder appeals the denial to the review board, the applicant
4943 or permit holder may have access to the evidence upon which the denial is based in
4944 accordance with Title 63G, Chapter 2, Government Records Access and Management
4945 Act.
- 4946 (d) On appeal to the board, the bureau has the burden of proof by a preponderance of the
4947 evidence.
- 4948 (e)(i) Upon a ruling by the board on the appeal of a denial, the board shall issue a
4949 final order within 30 days stating the board's decision.
- 4950 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

- 4951 (iii) The final order is final bureau action for purposes of judicial review under
4952 Section 63G-4-402.
- 4953 (17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
4954 Administrative Rulemaking Act, necessary to administer this chapter.
4955 Section 65. Section **53-5-705** is amended to read:
4956 **53-5-705 . Temporary permit to carry concealed firearm -- Denial, suspension, or**
4957 **revocation -- Appeal.**
- 4958 (1) The bureau or its designated agent may issue a temporary permit to carry a concealed
4959 firearm to a person who:
4960 (a) has applied for a permit under Section 53-5-704;
4961 (b) has applied for a temporary permit under this section; and
4962 (c) meets the criteria required in Subsections (2) and (3).
- 4963 (2) To receive a temporary permit under this section, the applicant shall demonstrate in
4964 writing to the satisfaction of the bureau extenuating circumstances that would justify
4965 issuing a temporary permit.
- 4966 (3) A temporary permit may not be issued under this section until preliminary record
4967 checks regarding the applicant have been made with the National Crime Information
4968 Center and the bureau to determine any criminal history.
- 4969 (4)(a) A temporary permit is valid only for a maximum of 90 days or any lesser period
4970 specified by the bureau, or until a permit under Section 53-5-704 is issued to the
4971 holder of the temporary permit, whichever period is shorter.
- 4972 (b) The provisions of Subsections [~~76-10-504(1) and (2)~~] 76-11-202(2), (3)(a), and (3)(b)
4973 and Section [~~76-10-505~~] 76-11-203 do not apply to a person issued a temporary
4974 permit under this section during the time period for which the temporary permit is
4975 valid.
- 4976 (5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the
4977 commissioner determines:
4978 (a) the circumstances justifying the temporary permit no longer exist; or
4979 (b) the holder of the temporary permit does not meet the requirements for a permit under
4980 Section 53-5-704.
- 4981 (6)(a) The denial, suspension, or revocation of a temporary permit shall be in writing

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4982 and shall include the reasons for the action.

4983 (b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be
4984 appealed to the board.

4985 (c) Denial, suspension, or revocation under this subsection is final action for purposes of
4986 judicial review under Section 63G-4-402.

4987 Section 66. Section **53-5-710** is amended to read:

4988 **53-5-710 . Cross-references to concealed firearm permit restrictions.**

4989 (1) A person with a permit of any kind to carry a concealed firearm may not carry a
4990 concealed firearm in the following locations:

4991 (a) any secure area prescribed in Section [~~76-10-523.5~~] 53-5a-107 in which firearms are
4992 prohibited and notice of the prohibition posted;

4993 (b) any airport secure area as provided in Section [~~76-10-529~~] 76-11-215; or

4994 (c) any house of worship or in any private residence where dangerous weapons are
4995 prohibited as provided in Section [~~76-10-530~~] 76-11-216.

4996 (2) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-204(4), a person under the age of
4997 21 with a permit of any kind to carry a concealed firearm may not carry a concealed
4998 firearm on or about school premises, as defined in Subsection [~~76-10-505.5(1)(a)~~]
4999 76-11-204(1)(a)(i).

5000 Section 67. Section **53-5-711** is amended to read:

5001 **53-5-711 . Law enforcement officials, judges, and court commissioners exempt --**
5002 **Training requirements -- Qualification -- Revocation.**

5003 (1) As used in this section and Section [~~76-10-523~~] 53-5a-108:

5004 (a) "Court commissioner" means an individual appointed under Section 78A-5-107.

5005 (b)(i) "Judge" means a judge or justice of a court of record or a court not of record.

5006 (ii) "Judge" does not include a judge pro tem or senior judge.

5007 (c) "Law enforcement official" means:

5008 (i) a member of the Board of Pardons and Parole;

5009 (ii) a district attorney, deputy district attorney, county attorney or deputy county
5010 attorney of a county not in a prosecution district;

5011 (iii) the attorney general;

5012 (iv) an assistant attorney general designated as a criminal prosecutor; or

- 5013 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
- 5014 (2) To qualify for an exemption in Section [76-10-523] 53-5a-108, a law enforcement
- 5015 official, judge, or court commissioner shall complete the following training
- 5016 requirements:
- 5017 (a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and
- 5018 (b) successfully complete an additional course of training as established by the
- 5019 commissioner of public safety designed to assist them while carrying out their
- 5020 official law enforcement, judicial, or court commissioner duties as agents for the state
- 5021 or its political subdivisions.
- 5022 (3) Annual requalification requirements for law enforcement officials, judges, or court
- 5023 commissioners shall be established by the commissioner of public safety. Additional
- 5024 requalification requirements may be established by the:
- 5025 (a) Board of Pardons and Parole by rule for its members;
- 5026 (b) Judicial Council by rule for judges and court commissioners; and
- 5027 (c) the district attorney, county attorney in a county not in a prosecution district, the
- 5028 attorney general, or city attorney by policy for prosecutors under their jurisdiction.
- 5029 (4) The bureau may:
- 5030 (a) issue a certificate of qualification to a judge, law enforcement official, or court
- 5031 commissioner who has completed the requirements of Subsection (2), which
- 5032 certificate of qualification is valid until revoked;
- 5033 (b) revoke the certificate of qualification of a judge, law enforcement official, or court
- 5034 commissioner who:
- 5035 (i) fails to meet the annual requalification criteria established pursuant to Subsection
- 5036 (3);
- 5037 (ii) would be subject to revocation of a concealed firearm permit under Subsection
- 5038 53-5-704(2)(a); or
- 5039 (iii) is no longer employed as a judge, law enforcement official, or court
- 5040 commissioner as defined in Subsection (1); and
- 5041 (c) certify instructors for the training requirements of this section.
- 5042 Section 68. Section **53-5a-102** is amended to read:
- 5043

CHAPTER 5a. FIREARMS LAWS

5044

Part 1. General Firearms Laws

5045

53-5a-102 . Uniform firearm laws.

5046

[(1) As used in this section:]

5047

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

5048

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

5049

[(c) "Firearm" means:]

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

5051

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

5052

by action of an explosive;]

5053

[(ii) ammunition; and]

5054

[(iii) a firearm accessory.]

5055

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

5056

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

5057

78B-6-2301.]

5058

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

5059

defined in Section 76-10-501.]

5060

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

5061

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

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under Article I, Section 6 of the Utah Constitution and the Second Amendment to the

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United States Constitution, the Legislature finds the need to provide uniform civil and

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criminal firearm laws throughout the state and declares that the Legislature occupies the

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whole field of state regulation of firearms.

5066

[(3)] (2) Except as specifically provided by state law, a local or state governmental entity

5067

may not:

5068

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring,

5069

transporting, or keeping a firearm, ammunition, or a firearm accessory at the

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individual's place of residence, property, business, or in any vehicle lawfully in the

5071

individual's possession or lawfully under the individual's control; or

5072

(b) require an individual to have a permit or license to purchase, own, possess, transport,

5073

or keep a firearm, ammunition, or a firearm accessory.

5074

[(4)] (3) [~~In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is~~] This part

5075 and Title 76, Chapter 11, Weapons are uniformly applicable throughout ~~[this]~~ the state
5076 and in all the ~~[state's-]~~political subdivisions of the state.

5077 ~~[(5)]~~ (4) Authority to regulate firearms is reserved to the state except where the Legislature
5078 specifically delegates responsibility to local or state governmental entities.

5079 ~~[(6)]~~ (5) Unless specifically authorized by the Legislature by statute, a local or state
5080 governmental entity may not enact, establish, or enforce ~~[any ordinance, regulation, rule,~~
5081 ~~or policy]~~ a directive pertaining to firearms, ammunition, or firearm accessories that in
5082 any way inhibits or restricts the possession, ownership, purchase, sale, transfer,
5083 transport, or use of firearms, ammunition, or firearm accessories on either public or
5084 private property.

5085 ~~[(7)]~~ (6) This section does not restrict or expand private property rights.

5086 ~~[(8)]~~ (7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm
5087 Preemption Enforcement Act.

5088 Section 69. Section **53-5a-102.1** is enacted to read:

5089 **53-5a-102.1 . Definitions.**

5090 As used in this part:

5091 (1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

5092 (2)(a) "Antique firearm" means:

5093 (i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or
5094 similar type of ignition system, manufactured in or before 1898;

5095 (ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the
5096 replica:

5097 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
5098 ammunition; or

5099 (B) uses rimfire or centerfire fixed ammunition which is no longer manufactured
5100 in the United States and is not readily available in ordinary channels of

5101 commercial trade; or

5102 (iii) a firearm that:

5103 (A) is a muzzle-loading rifle, shotgun, or pistol;

5104 (B) is designed to use black powder, or a black powder substitute; and

5105 (C) cannot use fixed ammunition.

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- 5106 (b) "Antique firearm" does not include:
- 5107 (i) a weapon that incorporates a firearm frame or receiver;
- 5108 (ii) a firearm that is converted into a muzzle-loading weapon; or
- 5109 (iii) a muzzle-loading weapon that can be readily converted to fire fixed ammunition
- 5110 by replacing the:
- 5111 (A) barrel;
- 5112 (B) bolt;
- 5113 (C) breechblock; or
- 5114 (D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).
- 5115 (3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
- 5116 within the department.
- 5117 (4)(a) "Concealed firearm" means a firearm that is:
- 5118 (i) covered, hidden, or secreted in a manner that the public would not be aware of the
- 5119 firearm's presence; and
- 5120 (ii) readily accessible for immediate use.
- 5121 (b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.
- 5122 (5) "Court commissioner" means an individual appointed under Section 78A-5-107.
- 5123 (6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 5124 (7) "Directive" means the same as that term is defined in Section 78B-6-2301.
- 5125 (8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short
- 5126 barreled rifle, or a device that could be used as a dangerous weapon from which is
- 5127 expelled a projectile by action of an explosive.
- 5128 (9) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.
- 5129 (10) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or
- 5130 unloaded, from which a shot, bullet, or other missile can be discharged, the length of
- 5131 which, not including any revolving, detachable, or magazine breech, does not exceed 12
- 5132 inches.
- 5133 (11) "Judge" means the same as that term is defined in Section 53-5-711.
- 5134 (12) "Local or state governmental entity" means the same as that term is defined in Section
- 5135 78B-6-2301.
- 5136 (13) "Readily accessible for immediate use" means that a firearm or other dangerous

- 5137 weapon is carried on the person or within such close proximity and in such a manner
5138 that the weapon can be retrieved and used as readily as if carried on the person.
- 5139 (14) "Residence" means an improvement to real property used or occupied as a primary or
5140 secondary residence.
- 5141 (15) "Securely encased" means not readily accessible for immediate use, such as held in a
5142 gun rack or in a closed case or container, whether or not locked, or in a trunk or other
5143 storage area of a motor vehicle, not including a glove box or console box.
- 5144 (16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-301.
- 5145 (17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-301.
- 5146 (18) "Shotgun" means the same as that term is defined in Section 53-5a-301.
- 5147 (19) "Slug" means the same as that term is defined in Section 53-5a-301.

5148 Section 70. Section **53-5a-102.3**, which is renumbered from Section 76-10-511 is renumbered
5149 and amended to read:

5150 **[76-10-511] 53-5a-102.3 . Possession of a loaded firearm at a residence or on real property**
5151 **authorized.**

5152 Except for persons described in Section [76-10-503] 76-11-302 and 18 U.S.C. Sec.
5153 922(g) and as otherwise prescribed in this part, [a person] an individual may have a
5154 loaded firearm:

- 5155 (1) at the [person's] individual's place of residence, including any temporary residence or
5156 camp; or
- 5157 (2) on the [person's] individual's real property.

5158 Section 71. Section **53-5a-105**, which is renumbered from Section 76-10-520 is renumbered
5159 and amended to read:

5160 **[76-10-520] 53-5a-105 . Number or mark assigned to a handgun by the department.**

- 5161 (1) The [Department of Public Safety] department upon request may assign a
5162 distinguishing number or mark of identification to [any pistol or revolver] a handgun
5163 whenever it is without a manufacturer's number, or other mark of identification or
5164 whenever the manufacturer's number or other mark of identification or the
5165 distinguishing number or mark assigned by the [Department of Public Safety] department
5166 has been destroyed or obliterated.
- 5167 (2) Except as provided in Subsection (3), an individual who places or stamps a number on a

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5168 handgun except one assigned to the handgun by the department is guilty of a class A
5169 misdemeanor.

5170 (3) This section does not:

5171 (a) prohibit restoration by the owner of the name of the maker, model, or of the original
5172 manufacturer's number or other mark of identification when the restoration is
5173 authorized by the department;

5174 (b) prohibit a manufacturer from placing in the ordinary course of business the name of
5175 the make, model, manufacturer's number, or other mark of identification upon a new
5176 handgun; or

5177 (c) apply to a handgun that is an antique firearm.

5178 Section 72. Section **53-5a-106**, which is renumbered from Section 76-10-522 is renumbered
5179 and amended to read:

5180 **[76-10-522] 53-5a-106 . Alteration of number or mark on pistol or revolver.**

5181 (1) [Any person who changes, alters, removes, or obliterates-] An individual may not
5182 change, alter, remove, or obliterate the name of the maker, the model, manufacturer's
5183 number, or other mark of identification, including any distinguishing number or mark
5184 assigned by the [Department of Public Safety] department, on [any pistol or revolver] a
5185 handgun, without first having secured written permission from the [Department of
5186 Public Safety] department to make the change, alteration, [or-]removal, [is guilty of a
5187 class A misdemeanor] or obliteration.

5188 (2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A
5189 misdemeanor.

5190 (3) This section does not apply to a handgun that is an antique firearm.

5191 Section 73. Section **53-5a-107**, which is renumbered from Section 76-10-523.5 is renumbered
5192 and amended to read:

5193 **[76-10-523.5] 53-5a-107 . Compliance with rules for secure facilities.**

5194 [Any person] An individual, including [a person] an individual licensed to carry a
5195 concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, shall
5196 comply with any rule established [for secure facilities] by a secure facility pursuant to
5197 Sections 53B-3-103, 76-8-311.1, 76-8-311.3, and 78A-2-203 and [shall be] is subject to
5198 any penalty provided in those sections.

5199 Section 74. Section **53-5a-108**, which is renumbered from Section 76-10-523 is renumbered
5200 and amended to read:

5201 **[76-10-523] 53-5a-108 . Persons exempt from weapons laws.**

5202 (1) Except for Sections ~~[76-10-506, 76-10-508, and 76-10-508.1, this part]~~ 76-11-205,
5203 76-11-207, and 76-11-208, this part, Title 76, Chapter 11, Weapons, and Title 53,
5204 Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

- 5205 (a) a United States marshal;
- 5206 (b) a federal official required to carry a firearm;
- 5207 (c) a peace officer of this or any other jurisdiction;
- 5208 (d) a law enforcement official as defined and qualified under Section 53-5-711;
- 5209 (e) a judge as defined and qualified under Section 53-5-711;
- 5210 (f) a court commissioner as defined and qualified under Section 53-5-711; or
- 5211 (g) a common carrier while engaged in the regular and ordinary transport of firearms as
5212 merchandise.

5213 (2) Notwithstanding Subsection (1), the provisions of Section ~~[76-10-528]~~ 76-11-214 apply
5214 to any individual listed in Subsection (1) who is not employed by a state or federal
5215 agency or political subdivision that has adopted a policy or rule regarding the use of
5216 dangerous weapons.

5217 (3) Subsections ~~[76-10-504(1) and (2), and Section 76-10-505]~~ 76-11-202(2), (3)(a), and
5218 (3)(b), and Section 76-11-203 do not apply to:

- 5219 (a) an individual to whom a permit to carry a concealed firearm has been issued:
 - 5220 (i) pursuant to Section 53-5-704; or
 - 5221 (ii) by another state or county; or
- 5222 (b) ~~[a person]~~ an individual who is issued a protective order under Subsection
5223 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the ~~[person]~~ individual is a restricted
5224 person as described in Subsection ~~[76-10-503(1)]~~ 76-11-302(1), for a period of 120
5225 days after the day on which the ~~[person]~~ individual is issued the protective order.

5226 (4) Except for Sections ~~[76-10-503, 76-10-506, 76-10-508, and 76-10-508.1]~~ 76-11-205,
5227 76-11-207, 76-11-208 and 76-11-302, this part, Title 76, Chapter 11, Weapons, and Title
5228 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in
5229 or through the state, provided that any firearm is:

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- 5230 (a) unloaded; and
5231 (b) securely encased~~[-as defined in Section 76-10-501].~~
5232 (5) Subsections ~~[76-10-504(1) and (2), and 76-10-505(1)(b)]~~ 76-11-202(2), (3)(a), and
5233 (3)(b), and 76-11-203(2)(b) do not apply to ~~[a person]~~ an individual 21 years old or older
5234 who may otherwise lawfully possess a firearm.

5235 Section 75. Section **53-5a-202** is amended to read:

5236 **53-5a-202 . Definitions.**

5237 As used in this part:

- 5238 (1)(a) "Federal regulation" means a federal executive order, rule, or regulation that
5239 infringes upon, prohibits, restricts, or requires individual licensure for, or registration
5240 of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or
5241 firearm accessory.
5242 (b) "Federal regulation" does not include:
5243 (i) a federal firearm statute; or
5244 (ii) a federal executive order, rule, or regulation that is incorporated into the Utah
5245 Code by reference.
5246 (2) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
5247 (3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
5248 (4) "Political subdivision" means a city, town, county, special district, or water conservancy
5249 district.

5250 Section 76. Section **53-5a-301** is enacted to read:

5251 **Part 3. Sale and Purchase of a Firearm**

5252 **53-5a-301 . Definitions.**

5253 As used in this part:

- 5254 (1) "Antique firearm" means the same as that term is defined in Section 53-5a-102.1.
5255 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
5256 within the department.
5257 (3) "Criminal history background check" means a criminal background check conducted
5258 through the bureau or a local law enforcement agency.
5259 (4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
5260 (5) "Dealer" means a person who is:

- 5261 (a) licensed under 18 U.S.C. Sec. 923; and
- 5262 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,
- 5263 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.
- 5264 (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 5265 (7) "Federal Firearms Licensee" means a person who:
- 5266 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and
- 5267 (b) is engaged in the activities authorized by the specific category of license held by the
- 5268 person.
- 5269 (8)(a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short
- 5270 barreled rifle, or a device that could be used as a dangerous weapon from which is
- 5271 expelled a projectile by action of an explosive.
- 5272 (b) "Firearm" does not include an antique firearm.
- 5273 (9)(a) "Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16
- 5274 inches in length.
- 5275 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,
- 5276 modification, or otherwise, if the weapon as modified has an overall length of fewer
- 5277 than 26 inches.
- 5278 (10)(a) "Short barreled shotgun" means a shotgun that has a barrel or barrels of fewer
- 5279 than 18 inches in length.
- 5280 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by
- 5281 alteration, modification, or otherwise, if the weapon as modified has an overall length
- 5282 of fewer than 26 inches
- 5283 (11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets
- 5284 or a single slug.
- 5285 (12) "Slug" means a single projectile discharged from a shotgun shell.
- 5286 Section 77. Section **53-5a-302**, which is renumbered from Section 76-10-526 is renumbered
- 5287 and amended to read:
- 5288 **[76-10-526] 53-5a-302 . Criminal background check prior to purchase of a firearm -- Fee --**
- 5289 **Exemption for concealed firearm permit holders and law enforcement officers.**
- 5290 [(1) For purposes of this section, "valid permit to carry a concealed firearm" does not
- 5291 include a temporary permit issued under Section 53-5-705.]

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5292 [(2)] (1)(a) To establish personal identification and residence in this state for purposes of
5293 this part, a dealer shall require an individual receiving a firearm to present one photo
5294 identification on a form issued by a governmental agency of the state.

5295 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as
5296 proof of identification for the purpose of establishing personal identification and
5297 residence in this state as required under this Subsection [(2)] (1).

5298 [(3)] (2)(a) A criminal history background check is required for the sale of a firearm by a
5299 licensed firearm dealer in the state.

5300 (b) Subsection [(3)(a)] (2)(a) does not apply to the sale of a firearm to a Federal Firearms
5301 Licensee.

5302 [(4)] (3)(a) An individual purchasing a firearm from a dealer shall consent in writing to a
5303 criminal background check, on a form provided by the bureau.

5304 (b) The form shall contain the following information:

5305 (i) the dealer identification number;

5306 (ii) the name and address of the individual receiving the firearm;

5307 (iii) the date of birth, height, weight, eye color, and hair color of the individual
5308 receiving the firearm; and

5309 (iv) the social security number or any other identification number of the individual
5310 receiving the firearm.

5311 [(5)] (4)(a) The dealer shall send the information required by Subsection [(4)] (3) to the
5312 bureau immediately upon its receipt by the dealer.

5313 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
5314 provided the bureau with the information in Subsection [(4)] (3) and has received
5315 approval from the bureau under Subsection [(7)] (6).

5316 [(6)] (5) The dealer shall make a request for criminal history background information by
5317 telephone or other electronic means to the bureau and shall receive approval or denial of
5318 the inquiry by telephone or other electronic means.

5319 [(7)] (6) When the dealer calls for or requests a criminal history background check, the
5320 bureau shall:

5321 (a) review the criminal history files, including juvenile court records, and the temporary
5322 restricted file created under Section 53-5c-301, to determine if the individual is

- 5323 prohibited from purchasing, possessing, or transferring a firearm by state or federal
5324 law;
- 5325 (b) inform the dealer that:
- 5326 (i) the records indicate the individual is prohibited; or
5327 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
- 5328 (c) provide the dealer with a unique transaction number for that inquiry; and
5329 (d) provide a response to the requesting dealer during the call for a criminal background
5330 check, or by return call, or other electronic means, without delay, except in case of
5331 electronic failure or other circumstances beyond the control of the bureau, the bureau
5332 shall advise the dealer of the reason for the delay and give the dealer an estimate of
5333 the length of the delay.
- 5334 ~~[(8)]~~ (7)(a) The bureau may not maintain any records of the criminal history background
5335 check longer than 20 days from the date of the dealer's request, if the bureau
5336 determines that the individual receiving the firearm is not prohibited from
5337 purchasing, possessing, or transferring the firearm under state or federal law.
- 5338 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
5339 firearms number, the transaction number, and the transaction date for a period of 12
5340 months.
- 5341 ~~[(9)]~~ (8)(a) If the criminal history background check discloses information indicating
5342 that the individual attempting to purchase the firearm is prohibited from purchasing,
5343 possessing, or transferring a firearm, the bureau shall:
- 5344 (i) within 24 hours after determining that the purchaser is prohibited from purchasing,
5345 possessing, or transferring a firearm, notify the law enforcement agency in the
5346 jurisdiction where the dealer is located; and
5347 (ii) inform the law enforcement agency in the jurisdiction where the individual
5348 resides.
- 5349 (b) Subsection ~~[(9)(a)]~~ (8)(a) does not apply to an individual prohibited from purchasing
5350 a firearm solely due to placement on the temporary restricted list under Section
5351 53-5c-301.
- 5352 (c) A law enforcement agency that receives information from the bureau under
5353 Subsection ~~[(9)(a)]~~ (8)(a) shall provide a report before August 1 of each year to the

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- 5354 bureau that includes:
- 5355 (i) based on the information the bureau provides to the law enforcement agency under
- 5356 Subsection ~~[(9)(a)]~~ (8)(a), the number of cases that involve an individual who is
- 5357 prohibited from purchasing, possessing, or transferring a firearm as a result of a
- 5358 conviction for an offense involving domestic violence; and
- 5359 (ii) of the cases described in Subsection ~~[(9)(e)(i)]~~ (8)(c)(i):
- 5360 (A) the number of cases the law enforcement agency investigates; and
- 5361 (B) the number of cases the law enforcement agency investigates that result in a
- 5362 criminal charge.
- 5363 (d) The bureau shall:
- 5364 (i) compile the information from the reports described in Subsection ~~[(9)(e)]~~ (8)(c);
- 5365 (ii) omit or redact any identifying information in the compilation; and
- 5366 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
- 5367 Committee before November 1 of each year.
- 5368 ~~[(10)]~~ (9) If an individual is denied the right to purchase a firearm under this section, the
- 5369 individual may review the individual's criminal history information and may challenge
- 5370 or amend the information as provided in Section 53-10-108.
- 5371 ~~[(11)]~~ (10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
- 5372 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of
- 5373 all records provided by the bureau under this part are in conformance with the
- 5374 requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107
- 5375 Stat. 1536 (1993).
- 5376 ~~[(12)]~~ (11)(a) A dealer shall collect a criminal history background check fee for the sale
- 5377 of a firearm under this section.
- 5378 (b) The fee described under Subsection ~~[(12)(a)]~~ (11)(a) remains in effect until changed
- 5379 by the bureau through the process described in Section 63J-1-504.
- 5380 (c)(i) The dealer shall forward at one time all fees collected for criminal history
- 5381 background checks performed during the month to the bureau by the last day of
- 5382 the month following the sale of a firearm.
- 5383 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to
- 5384 cover the cost of administering and conducting the criminal history background

5385 check program.

5386 ~~[(13)]~~ (12)(a) An individual with a concealed firearm permit issued under Title 53,
5387 Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and
5388 corresponding fee required in this section for the purchase of a firearm if:

5389 ~~[(a)]~~ (i) the individual presents the individual's concealed firearm permit to the dealer
5390 prior to purchase of the firearm; and

5391 ~~[(b)]~~ (ii) the dealer verifies with the bureau that the individual's concealed firearm
5392 permit is valid.

5393 (b) An individual with a temporary permit to carry a concealed firearm issued under
5394 Section 53-5-705 is not exempt from a background check and the corresponding fee
5395 required in this section for the purchase of a firearm.

5396 ~~[(14)]~~ (13)(a) A law enforcement officer, as defined in Section 53-13-103, is exempt
5397 from the background check fee required in this section for the purchase of a personal
5398 firearm to be carried while off-duty if the law enforcement officer verifies current
5399 employment by providing a letter of good standing from the officer's commanding
5400 officer and current law enforcement photo identification.

5401 (b) Subsection ~~[(14)(a)]~~ (13)(a) may only be used by a law enforcement officer to
5402 purchase a personal firearm once in a 24-month period.

5403 ~~[(15)]~~ (14) A dealer engaged in the business of selling, leasing, or otherwise transferring a
5404 firearm shall:

5405 (a) make the firearm safety brochure described in Subsection ~~[26B-5-211(3)]~~
5406 26B-5-102(3) available to a customer free of charge; and

5407 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under
5408 Subsection ~~[26B-5-211(3)]~~ 26B-5-102(3) to a customer purchasing a shotgun, short
5409 barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does
5410 not require be accompanied by a gun lock at the time of purchase.

5411 Section 78. Section **53-5a-303**, which is renumbered from Section 76-10-526.1 is renumbered
5412 and amended to read:

5413 ~~[76-10-526.1]~~ **53-5a-303 . Information check before private sale of firearm.**

5414 (1) As used in this section:

5415 (a) "Governmental entity" means the state and the state's political subdivisions.

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- 5416 (b) "Law enforcement agency" means the same as that term is defined in Section
5417 53-1-102.
- 5418 (c) "Personally identifiable information" means the same as that term is defined in
5419 Section 63D-2-102.
- 5420 (2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows
5421 an individual who is selling or purchasing a firearm to voluntarily determine:
- 5422 (a) if the other individual involved in the sale of the firearm has a valid concealed carry
5423 permit; or
- 5424 (b) based on the serial number of the firearm, if the firearm is reported as stolen.
- 5425 (3) Subsection (2) does not apply to a federal firearms licensee or dealer.
- 5426 (4) The bureau may not:
- 5427 (a) provide information related to a request under Subsection (2) to a law enforcement
5428 agency; or
- 5429 (b) collect a user's personally identifiable information under Subsection (2).
- 5430 (5) A governmental entity may not require an individual who is selling or purchasing a
5431 firearm to use the process under Subsection (2).
- 5432 (6) If an individual uses the process under Subsection (2), the individual is not required,
5433 based on the information the individual receives from the bureau, to make a report to a
5434 law enforcement agency.
- 5435 (7) After responding to a request under Subsection (2), the bureau shall immediately
5436 dispose of all information related to the request.
- 5437 (8)(a) This section does not create a civil cause of action arising from the sale or
5438 purchase of a firearm under this section.
- 5439 (b) An individual's failure to use the process under Subsection (2) is not evidence of the
5440 individual's negligence in a civil cause of action.
- 5441 Section 79. Section **53-5a-304**, which is renumbered from Section 76-10-527 is renumbered
5442 and amended to read:
- 5443 **~~[76-10-527]~~ 53-5a-304 . Penalties.**
- 5444 (1) A dealer is guilty of a class A misdemeanor ~~[whø]~~ if the dealer willfully and
5445 intentionally:
- 5446 (a) requests, obtains, or seeks to obtain criminal history background information under

- 5447 false pretenses;
- 5448 (b) disseminates criminal history background information; or
- 5449 (c) violates Section ~~[76-10-526]~~ 53-5a-302.
- 5450 (2) ~~[A person]~~ An individual who purchases or transfers a firearm is guilty of a third degree
- 5451 felony ~~[of the third degree if the person]~~ if the individual willfully and intentionally
- 5452 makes a false statement of the information required for a criminal background check in
- 5453 Section ~~[76-10-526]~~ 53-5a-302.
- 5454 (3) Except as otherwise provided in Subsection (1), a dealer is guilty of a ~~[felony of the]~~
- 5455 third degree felony if the dealer willfully and intentionally sells or transfers a firearm in
- 5456 violation of this part or Title 76, Chapter 11, Part 1, Weapons.
- 5457 (4) ~~[A person]~~ An individual is guilty of a ~~[felony of the]~~ third degree felony if the ~~[person]~~
- 5458 individual purchases a firearm with the intent to:
- 5459 (a) resell or otherwise provide a firearm to ~~[a person]~~ an individual who is ineligible to
- 5460 purchase or receive a firearm from a dealer; or
- 5461 (b) transport a firearm out of this state to be resold to an ~~[ineligible person]~~ individual
- 5462 who is ineligible to purchase or receive a firearm from a dealer.

5463 Section 80. Section **53-5a-305**, which is renumbered from Section 76-10-524 is renumbered

5464 and amended to read:

5465 ~~[76-10-524]~~ **53-5a-305 . Purchase of firearms pursuant to federal law.**

5466 This part ~~[will allow purchases]~~ allows the purchase of firearms and ammunition

5467 pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

5468 Section 81. Section **53-5c-201** is amended to read:

5469 **53-5c-201 . Voluntary commitment of a firearm by cohabitant -- Law**

5470 **enforcement to hold firearm.**

5471 (1)(a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law

5472 enforcement agency or request that a law enforcement officer receive a firearm for

5473 safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant

5474 or another cohabitant with access to the firearm is an immediate threat to:

- 5475 (i) a cohabitant;
- 5476 (ii) the owner cohabitant; or
- 5477 (iii) another individual.

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- 5478 (b) Except as provided in Subsection (2), if the owner of a firearm requests return of the
5479 firearm in person at the law enforcement agency's office, the law enforcement agency:
5480 (i) may not hold the firearm under this section; and
5481 (ii) shall return the firearm to the owner.
- 5482 (2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b)
5483 if the owner of the firearm:
5484 (a) is a restricted person under Section [~~76-10-503~~] 76-11-302; or
5485 (b)(i) has been arrested and booked into a county jail on a class A misdemeanor or
5486 felony domestic violence offense;
5487 (ii) has had a court:
5488 (A) review the probable cause statement detailing the incident leading to the
5489 owner's arrest; and
5490 (B) determine that probable cause existed for the arrest; and
5491 (iii) is subject to a jail release agreement or a jail release court order arising out of the
5492 domestic violence offense.
- 5493 (3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement
5494 agency that receives a firearm in accordance with this chapter shall:
5495 (a) record:
5496 (i) the owner cohabitant's name, address, and phone number;
5497 (ii) the firearm serial number and the make and model of each firearm committed; and
5498 (iii) the date that the firearm was voluntarily committed;
5499 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the
5500 home;
5501 (c) hold the firearm in safe custody:
5502 (i) for 60 days after the day on which the firearm is voluntarily committed; or
5503 (ii)(A) for an owner described in Subsection (2)(b), during the time the jail
5504 release agreement or jail release court order is in effect; and
5505 (B) for 60 days after the day on which the jail release agreement or jail release
5506 court order expires; and
5507 (d) upon proof of identification, return the firearm to:
5508 (i)(A) the owner cohabitant after the expiration of the 60-day period; or

- 5509 (B) if the owner cohabitant requests return of the firearm before the expiration of
5510 the 60-day period, at the time of the request; or
5511 (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- 5512 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
5513 (a) if the initial 60-day period expires; and
5514 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the
5515 firearm for an additional 60 days.
- 5516 (5) A law enforcement agency may not request or require that the owner cohabitant provide
5517 the name or other information of the cohabitant who poses an immediate threat or any
5518 other cohabitant.
- 5519 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
5520 Section 63G-2-701, a law enforcement agency shall destroy a record created under
5521 Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the
5522 application of this chapter immediately, if practicable, but no later than five days after
5523 immediately upon the:
5524 (a) return of a firearm in accordance with Subsection (3)(d); or
5525 (b) disposal of the firearm in accordance with Section 53-5c-202.
- 5526 (7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid
5527 Property, do not apply to a firearm received by a law enforcement agency in accordance
5528 with this chapter.
- 5529 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in
5530 accordance with this chapter.
- 5531 (9) The department shall create a pamphlet to be distributed by a law enforcement officer
5532 under Section 77-36-2.1 that includes information about a cohabitant's or owner
5533 cohabitant's ability to have the owner cohabitant's firearm committed to a law
5534 enforcement agency for safekeeping in accordance with this section.
- 5535 Section 82. Section **53-5c-301** is amended to read:
5536 **53-5c-301 . Voluntary restrictions on firearm purchase and possession.**
- 5537 (1) An individual who is not a restricted person under Section [~~76-10-503~~] 76-11-302 may
5538 voluntarily request to be restricted from the purchase or possession of firearms.
- 5539 (2) An individual requesting to be restricted under Subsection (1) may request placement on

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- 5540 one of the following restricted lists:
- 5541 (a) a restricted list that:
- 5542 (i) restricts the individual from purchasing or possessing a firearm for 180 days with
- 5543 automatic removal of the individual from the restricted list at the end of the 180
- 5544 days; and
- 5545 (ii) allows the individual to request removal 30 days after the day on which the
- 5546 individual is added to the restricted list; or
- 5547 (b) a restricted list that:
- 5548 (i) restricts the individual from purchasing or possessing a firearm indefinitely; and
- 5549 (ii) allows the individual to request removal 90 days after the day on which the
- 5550 individual is added to the restricted list.
- 5551 (3)(a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms
- 5552 for inclusion on, and removal from, a restricted list as described in Subsection (2) to
- 5553 be maintained by the bureau.
- 5554 (b) The bureau shall make the forms for inclusion and removal available by download
- 5555 through the bureau's website and require, at a minimum, the following information
- 5556 for the individual described in Subsection (1):
- 5557 (i) name;
- 5558 (ii) address;
- 5559 (iii) date of birth;
- 5560 (iv) contact information;
- 5561 (v) signature; and
- 5562 (vi)(A) if the individual is entered on the restricted list as described in Subsection
- 5563 (2)(a), an acknowledgment of the statement in Subsection (8)(a); or
- 5564 (B) if the individual is entered on the restricted list as described in Subsection
- 5565 (2)(b), an acknowledgment of the statement in Subsection (8)(b).
- 5566 (4)(a) An individual requesting inclusion on a restricted list under Subsection (2) shall:
- 5567 (i) deliver the completed form in person to a law enforcement agency; or
- 5568 (ii) direct the individual's health care provider under Section 53-5c-302 to
- 5569 electronically deliver the individual's request to the bureau.
- 5570 (b) The law enforcement agency described in Subsection (4)(a)(i):

- 5571 (i) shall verify the individual's identity before accepting the form;
5572 (ii) may not accept a form from someone other than the individual named on the
5573 form; and
5574 (iii) shall transmit the form electronically to the bureau through the Utah Criminal
5575 Justice Information System.
- 5576 (5) Upon receipt of a verified form provided under this section or Section 53-5c-302
5577 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add the
5578 individual's name to the restricted list.
- 5579 (6)(a) For an individual added to the restricted list described in Subsection (2)(a):
5580 (i) the individual may not request removal from the restricted list unless the
5581 individual has been on the restricted list for at least 30 days;
5582 (ii) the bureau shall remove the individual from the restricted list 180 days after the
5583 day on which the individual was added to the restricted list, unless the individual:
5584 (A) requests to be removed from the restricted list after 30 days;
5585 (B) requests to remain on the restricted list; or
5586 (C) directs the individual's health care provider to request that the individual
5587 remain on the restricted list;
5588 (iii) a request for an extension shall be made in the same manner as the original
5589 request; and
5590 (iv) the individual may continue to request, or direct the individual's health care
5591 provider to continue to request, extensions every 180 days.
- 5592 (b) For an individual added to a restricted list under Subsection (2)(b), the individual:
5593 (i) may not request removal from the restricted list unless the individual has been on
5594 the restricted list for at least 90 days; and
5595 (ii) shall remain on the restricted list, unless the bureau receives a request from the
5596 individual to have the individual's name removed from the restricted list.
- 5597 (7) If an individual restricted under this section is a concealed firearm permit holder, the
5598 individual's permit shall be:
5599 (a) suspended upon entry on the restricted list; and
5600 (b) reinstated upon removal from the restricted list, unless:
5601 (i) the permit has been revoked, been suspended for a reason other than under this

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5602 section, or has expired; or

5603 (ii) the individual has become a restricted person under Section [~~76-10-503~~] 76-11-302.

5604 (8)(a) The form for an individual seeking to be placed on the restricted list described in

5605 Subsection (2)(a) shall have the following language prominently displayed before the signature:

5606

"ACKNOWLEDGMENT

5607 By presenting this completed form to a law enforcement agency, I understand that I am

5608 requesting that my name be placed on a restricted list that restricts my ability to purchase or

5609 possess firearms for a minimum of 30 days, and up to 6 months. I understand that by

5610 voluntarily making myself a temporarily restricted person, I may not have a firearm in my

5611 possession and any attempt to purchase a firearm while I am on the restricted list will be

5612 declined. I also understand that any time after 30 days, I may request removal from the

5613 restricted list and all previous rights will be restored. In addition, if I am in possession of a

5614 valid concealed firearm permit, my permit will be suspended during the time I am on the

5615 restricted list, but will be reinstated upon my removal, unless the permit has expired, been

5616 revoked, been suspended for another reason, or I become ineligible to possess a firearm.

5617 Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while

5618 outside Utah, I will be subject to the law of that location regarding restricted persons."

5619 (b) The form for an individual seeking to be placed on the restricted list described in

5620 Subsection (2)(b) shall have the following language prominently displayed before the

5621 signature:

5622

"ACKNOWLEDGMENT

5623 By presenting this completed form to a law enforcement agency, I understand that I am

5624 requesting that my name be placed on a restricted list that restricts my ability to purchase or

5625 possess firearms indefinitely. I understand that by voluntarily making myself a temporarily

5626 restricted person, I may not have a firearm in my possession and any attempt to purchase a

5627 firearm while I am on the restricted list will be declined. I also understand that any time after

5628 90 days, I may request removal from the restricted list and all previous rights will be restored.

5629 In addition, if I am in possession of a valid concealed firearm permit, my permit will be

5630 suspended during the time I am on the restricted list, but will be reinstated upon my removal,

5631 unless the permit has expired, been revoked, been suspended for another reason, or I become
5632 ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or
5633 attempt to purchase a firearm while outside Utah, I will be subject to the law of that location
5634 regarding restricted persons."

5635 (9)(a) An individual requesting removal from a restricted list shall deliver a completed
5636 removal form in person to:

5637 (i) the law enforcement agency that processed the inclusion form if the individual
5638 was placed on the restricted list under Subsection (4)(a)(i); or

5639 (ii) the individual's local law enforcement agency if the individual was placed on the
5640 restricted list under Subsection (4)(a)(ii).

5641 (b) The law enforcement agency described in Subsection (9)(a):

5642 (i) shall verify the individual's identity before accepting the form;

5643 (ii) may not accept a removal form from someone other than the individual named on
5644 the form; and

5645 (iii) shall transmit the removal form electronically to the bureau through the Utah
5646 Criminal Justice Information System.

5647 (10) Upon receipt of a verified removal form, the bureau shall, after three business days,
5648 remove the individual from the restricted list and remove the information from the
5649 National Instant Criminal Background Check System.

5650 (11) For an individual added to the restricted list under Subsection (2)(a), within 30 days
5651 before the 180-day removal deadline, the bureau shall notify the individual at the
5652 address listed on the inclusion form described in Subsection (4) and, if applicable, the
5653 law enforcement agency that processed the inclusion form, that the individual is due to
5654 be removed from the restricted list, and the date on which the removal will occur, unless
5655 the individual requests an extension of up to 180 days.

5656 (12)(a) A law enforcement agency that receives a request for inclusion under
5657 Subsection (4)(a)(i) shall:

5658 (i) maintain the completed form and all subsequent completed forms in a separate
5659 file; and

5660 (ii) for an individual added to the restricted list under Subsection (2)(a), destroy the
5661 entire file within five days after the date indicated in the notification if the

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- 5662 individual does not request an extension after notification in accordance with
5663 Subsection (11).
- 5664 (b) A law enforcement agency that receives a removal request under Subsection (9) shall
5665 destroy the entire file associated with the individual within five days after the day on
5666 which the information is transmitted to the bureau.
- 5667 (c) Upon removal of an individual from a restricted list, the bureau shall destroy all
5668 records related to the inclusion and removal of the individual within five days after
5669 the day on which the individual was removed.
- 5670 (d) All forms and records created in accordance with this section are classified as private
5671 records in accordance with Title 63G, Chapter 2, Government Records Access and
5672 Management Act.
- 5673 (13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah
5674 Administrative Rulemaking Act, to develop the process and forms to implement this
5675 section.
- 5676 Section 83. Section **53-5c-302** is amended to read:
5677 **53-5c-302 . Assistance from a health care provider -- Restricted list.**
- 5678 (1) An individual who is not a restricted person under Section [~~76-10-503~~] 76-11-302 and is
5679 seeking inclusion on a restricted list under Section 53-5c-301 may direct the individual's
5680 health care provider to electronically deliver the individual's inclusion request described
5681 in Section 53-5c-301 to the bureau.
- 5682 (2) In addition to the inclusion form described in Section 53-5c-301, the bureau shall create
5683 a form, available by download through the bureau's website, for:
- 5684 (a) an individual who is directing a health care provider to electronically deliver the
5685 individual's inclusion request and require, at a minimum, the following information:
5686 (i) the individual's signature;
5687 (ii) the name of the individual's health care provider; and
5688 (iii) the individual's acknowledgment of the statement in Subsection (4)(a); and
- 5689 (b) a health care provider who is delivering an individual's inclusion request and require,
5690 at a minimum, the following information for the health care provider:
5691 (i) the health care provider's name;
5692 (ii) the name of the health care provider's organization;

- 5693 (iii) the health care provider's license or certification, including the license or
- 5694 certification number;
- 5695 (iv) the health care provider's signature; and
- 5696 (v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

5697 (3)(a) An individual who is directing a health care provider to electronically deliver the
5698 individual's request to be included on a restricted list shall, in the presence of the
5699 health care provider, complete the forms described in Section 53-5c-301 and
5700 Subsection (2)(a).

5701 (b) The health care provider:

- 5702 (i) shall verify the individual's identity before accepting the forms;
- 5703 (ii) may not accept forms from someone other than the individual named on the
- 5704 forms;
- 5705 (iii) shall complete the form described in Subsection (2)(b); and
- 5706 (iv) shall deliver the request to the bureau electronically and maintain a copy of the
- 5707 completed request in the individual's health record.

5708 (4)(a) The form described in Subsection (2)(a) shall have the following language prominently
5709 displayed before the signature:

5710

"ACKNOWLEDGMENT

5711 By presenting this completed form to my health care provider, I understand that I am
5712 requesting that my health care provider present my name to the Bureau of Criminal
5713 Identification to be placed on a restricted list that restricts my ability to purchase or possess
5714 firearms."

5715 (b) The form described in Subsection (2)(b) shall have the following language prominently
5716 displayed before the signature:

5717

"ACKNOWLEDGMENT

5718 By presenting this completed form to the Bureau of Criminal Identification, I understand
5719 that I am acknowledging that I have verified the identity of [name of individual seeking
5720 inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting
5721 that [name of individual] be placed on a restricted list that restricts [name of individual]'s

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5722 ability to purchase or possess firearms. I affirm that [name of individual] is currently my
5723 patient, and I am a licensed health care provider acting within the scope of my license,
5724 certification, practice, education, or training."

5725 (5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah
5726 Administrative Rulemaking Act, to develop the process and forms to implement this
5727 section.

5728 Section 84. Section **53-5d-102** is amended to read:

5729 **53-5d-102 . Definitions.**

5730 As used in this chapter:

5731 (1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other
5732 ammunition designed for use in any firearm, either as an individual component part or in
5733 a completely assembled cartridge.

5734 (2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in
5735 the business of manufacturing a qualified product and who is licensed to engage in
5736 business as a manufacturer under 18 U.S.C. Chapter 44.

5737 (3) "Negligent entrustment" means the supplying of a qualified product by a seller for use
5738 by another person when the seller knows, or reasonably should know, the person to
5739 whom the product is supplied is likely to, and does, use the product in a manner
5740 involving unreasonable risk of physical injury to the person or others.

5741 (4) "Person" means the same as that term is defined in Section 68-3-12.5.

5742 (5)(a) "Qualified civil liability action" means a civil action or proceeding or an
5743 administrative proceeding brought by any person against a manufacturer or seller of a
5744 qualified product, or a trade association, for damages, punitive damages, injunctive or
5745 declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting
5746 from the criminal or unlawful misuse of a qualified product by the person or a third
5747 party.

5748 (b) "Qualified civil liability action" does not include:

5749 (i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or
5750 Section ~~[76-10-503]~~ 76-11-302 by a party directly harmed by the conduct of which
5751 the transferee was convicted;

5752 (ii) an action brought against a seller for negligent entrustment or negligence per se;

- 5753 (iii) an action in which a manufacturer or seller of a qualified product knowingly
5754 violated a state or federal statute applicable to the sale or marketing of the
5755 product, and the violation was a proximate cause of the harm for which relief is
5756 sought, including:
- 5757 (A) any incident in which the manufacturer or seller knowingly made any false
5758 entry in, or failed to make appropriate entry in, any record required to be kept
5759 under federal or state law with respect to the qualified product, or aided,
5760 abetted, or conspired with any person in making any false or fictitious oral or
5761 written statement with respect to any fact material to the lawfulness of the sale
5762 or other disposition of a qualified product; or
- 5763 (B) any case in which the manufacturer or seller aided, abetted, or conspired with
5764 any other person to sell or otherwise dispose of a qualified product, knowing,
5765 or having reasonable cause to believe, that the actual buyer of the qualified
5766 product was prohibited from possessing or receiving a firearm or ammunition
5767 under 18 U.S.C. Sec. 922(g) or (n) or Section [~~76-10-503~~] 76-11-302;
- 5768 (iv) an action for breach of contract or warranty in connection with the purchase of
5769 the product;
- 5770 (v) an action for death, physical injuries, or property damage resulting directly from a
5771 defect in design or manufacture of the product, when used as intended or in a
5772 reasonably foreseeable manner, except that where the discharge of the product
5773 was caused by a volitional act that constituted a criminal offense, then the act shall
5774 be considered the sole proximate cause of any resulting death, personal injuries, or
5775 property damage; or
- 5776 (vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C.
5777 Chapter 44, 26 U.S.C. Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~] Title
5778 76, Chapter 11, Weapons.
- 5779 (6) "Qualified product" means a firearm or antique firearm, as defined in Section [~~76-10-501~~]
5780 76-11-101, ammunition, or a component part of a firearm or ammunition.
- 5781 (7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as
5782 defined in Section [~~76-10-501~~] 53-5a-301.
- 5783 (8) "Trade association" means:

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- 5784 (a) any corporation, unincorporated association, federation, business league, or
5785 professional or business organization not organized or operated for profit and no part
5786 of the net earnings of which inures to the benefit of any private shareholder or
5787 individual;
- 5788 (b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26
5789 U.S.C. Sec. 501(a); and
- 5790 (c) an organization, two or more members of which are manufacturers or sellers of a
5791 qualified product.

5792 (9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it
5793 relates to the use of a qualified product.

5794 Section 85. Section **53-10-202** is amended to read:

5795 **53-10-202 . Criminal identification -- Duties of bureau.**

5796 The bureau shall:

- 5797 (1) procure and file information relating to identification and activities of persons who:
- 5798 (a) are fugitives from justice;
- 5799 (b) are wanted or missing;
- 5800 (c) have been arrested for or convicted of a crime under the laws of any state or nation;
- 5801 and
- 5802 (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;
- 5803 (2) establish a statewide uniform crime reporting system that shall include:
- 5804 (a) statistics concerning general categories of criminal activities;
- 5805 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,
- 5806 religion, ancestry, national origin, ethnicity, or other categories that the division finds
- 5807 appropriate;
- 5808 (c) statistics concerning the use of force by law enforcement officers in accordance with
- 5809 the Federal Bureau of Investigation's standards; and
- 5810 (d) other statistics required by the Federal Bureau of Investigation;
- 5811 (3) make a complete and systematic record and index of the information obtained under this
- 5812 part;
- 5813 (4) subject to the restrictions in this part, establish policy concerning the use and
- 5814 dissemination of data obtained under this part;

- 5815 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of
5816 crime in Utah;
- 5817 (6) establish a statewide central register for the identification and location of missing
5818 persons, which may include:
- 5819 (a) identifying data including fingerprints of each missing person;
- 5820 (b) identifying data of any missing person who is reported as missing to a law
5821 enforcement agency having jurisdiction;
- 5822 (c) dates and circumstances of any persons requesting or receiving information from the
5823 register; and
- 5824 (d) any other information, including blood types and photographs found necessary in
5825 furthering the purposes of this part;
- 5826 (7) publish a quarterly directory of missing persons for distribution to persons or entities
5827 likely to be instrumental in the identification and location of missing persons;
- 5828 (8) list the name of every missing person with the appropriate nationally maintained
5829 missing persons lists;
- 5830 (9) establish and operate a 24-hour communication network for reports of missing persons
5831 and reports of sightings of missing persons;
- 5832 (10) coordinate with the National Center for Missing and Exploited Children and other
5833 agencies to facilitate the identification and location of missing persons and the
5834 identification of unidentified persons and bodies;
- 5835 (11) receive information regarding missing persons as provided in Sections 26B-8-130 and
5836 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section
5837 41-1a-1401;
- 5838 (12) adopt systems of identification, including the fingerprint system, to be used by the
5839 division to facilitate law enforcement;
- 5840 (13) assign a distinguishing number or mark of identification to any pistol or revolver, as
5841 provided in Section ~~[76-10-520]~~ 53-5a-105;
- 5842 (14) check certain criminal records databases for information regarding motor vehicle
5843 salesperson applicants, maintain a separate file of fingerprints for motor vehicle
5844 salespersons, and inform the Motor Vehicle Enforcement Division when new entries are
5845 made for certain criminal offenses for motor vehicle salespersons in accordance with the

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- 5846 requirements of Section 41-3-205.5;
- 5847 (15) check certain criminal records databases for information regarding driving privilege
- 5848 card applicants or cardholders and maintain a separate file of fingerprints for driving
- 5849 privilege applicants and cardholders and inform the federal Immigration and Customs
- 5850 Enforcement Agency of the United States Department of Homeland Security when new
- 5851 entries are made in accordance with the requirements of Section 53-3-205.5;
- 5852 (16) review and approve or disapprove applications for license renewal that meet the
- 5853 requirements for renewal; and
- 5854 (17) forward to the board those applications for renewal under Subsection (16) that do not
- 5855 meet the requirements for renewal.

5856 Section 86. Section **53-10-208.1** is amended to read:

5857 **53-10-208.1 . Magistrates and court clerks to supply information.**

- 5858 (1) Every magistrate or clerk of a court responsible for court records in this state shall,
- 5859 within 30 days after the day of the disposition and on forms and in the manner provided
- 5860 by the division, furnish the division with information pertaining to:
- 5861 (a) all dispositions of criminal matters, including:
- 5862 (i) guilty pleas;
- 5863 (ii) convictions;
- 5864 (iii) dismissals;
- 5865 (iv) acquittals;
- 5866 (v) pleas in abeyance;
- 5867 (vi) judgments of not guilty by reason of insanity;
- 5868 (vii) judgments of guilty with a mental condition;
- 5869 (viii) finding of mental incompetence to stand trial; and
- 5870 (ix) probations granted;
- 5871 (b) orders of civil commitment under the terms of Section 26B-5-332;
- 5872 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 5873 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section
- 5874 78B-6-303, within one day of the action and in a manner provided by the division;
- 5875 and
- 5876 (d) protective orders issued after notice and hearing, pursuant to:

- 5877 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
- 5878 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
- 5879 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
- 5880 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
- 5881 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 5882 (2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v),
- 5883 or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate
- 5884 or clerk of a court shall include available information regarding whether the conviction
- 5885 for assault resulted from an assault against an individual:
- 5886 (a) who is included in at least one of the relationship categories described in Subsection [
- 5887 76-10-503(1)(b)(xii)] 76-11-302(1)(b)(xii); or
- 5888 (b) with whom none of the relationships described in Subsection [76-10-503(1)(b)(xii)]
- 5889 76-11-302(1)(b)(xii) apply.
- 5890 (3) The court in the county where a determination or finding was made shall transmit a
- 5891 record of the determination or finding to the bureau no later than 48 hours after the
- 5892 determination is made, excluding Saturdays, Sundays, and legal holidays, if an
- 5893 individual is:
- 5894 (a) adjudicated as a mental defective; or
- 5895 (b) involuntarily committed to a mental institution in accordance with Subsection
- 5896 26B-5-332(16).
- 5897 (4) The record described in Subsection (3) shall include:
- 5898 (a) an agency record identifier;
- 5899 (b) the individual's name, sex, race, and date of birth; and
- 5900 (c) the individual's social security number, government issued driver license or
- 5901 identification number, alien registration number, government passport number, state
- 5902 identification number, or FBI number.
- 5903 Section 87. Section **53-10-403** is amended to read:
- 5904 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**
- 5905 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
- 5906 (a) a person who has pled guilty to or has been convicted of any of the offenses under
- 5907 Subsection (2)(a) or (b) on or after July 1, 2002;

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- 5908 (b) a person who has pled guilty to or has been convicted by any other state or by the
5909 United States government of an offense which if committed in this state would be
5910 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after
5911 July 1, 2003;
- 5912 (c) a person who has been booked on or after January 1, 2011, through December 31,
5913 2014, for any offense under Subsection (2)(c);
- 5914 (d) a person who has been booked:
- 5915 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May
5916 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
5917 felony offense; or
- 5918 (ii) on or after January 1, 2015, for any felony offense; or
- 5919 (e) a minor:
- 5920 (i)(A) who is adjudicated by the juvenile court for an offense described in
5921 Subsection (2) that is within the jurisdiction of the juvenile court on or after
5922 July 1, 2002; or
- 5923 (B) who is adjudicated by the juvenile court for an offense described in
5924 Subsection (2) and is in the legal custody of the Division of Juvenile Justice
5925 Services for the offense on or after July 1, 2002; and
- 5926 (ii) who is 14 years old or older at the time of the commission of the offense
5927 described in Subsection (2).
- 5928 (2) Offenses referred to in Subsection (1) are:
- 5929 (a) any felony or class A misdemeanor under the Utah Code;
- 5930 (b) any offense under Subsection (2)(a):
- 5931 (i) for which the court enters a judgment for conviction to a lower degree of offense
5932 under Section 76-3-402; or
- 5933 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
5934 defined in Section 77-2a-1; or
- 5935 (c)(i) any violent felony as defined in Section 53-10-403.5;
- 5936 (ii) sale or use of body parts, Section 26B-8-315;
- 5937 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 5938 (iv) operating a motor vehicle with any amount of a controlled substance in an

- 5939 individual's body and causing serious bodily injury or death, as codified before
5940 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
5941 (2)(g);
- 5942 (v) a felony violation of enticing a minor, Section [~~76-4-401~~] 76-5-417;
- 5943 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 5944 (vii) a felony violation of propelling a substance or object at a correctional officer, a
5945 peace officer, or an employee or a volunteer, including health care providers,
5946 Section 76-5-102.6;
- 5947 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 5948 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
5949 smuggling, Section 76-5-310.1;
- 5950 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 5951 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 5952 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 5953 (xiii) sale of a child, Section 76-7-203;
- 5954 (xiv) aggravated escape, Section 76-8-309.3;
- 5955 (xv) a felony violation of threatened or attempted assault on an elected official,
5956 Section 76-8-313;
- 5957 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or
5958 a member of the Board of Pardons and Parole or acting against a family member
5959 of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
- 5960 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge
5961 or a member of the Board of Pardons and Parole or acting against a family
5962 member of a judge or a member of the Board of Pardons and Parole, Section
5963 76-8-316.2;
- 5964 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate
5965 against a judge or a member of the Board of Pardons and Parole or acting against
5966 a family member of a judge or a member of the Board of Pardons and Parole,
5967 Section 76-8-316.4;
- 5968 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate
5969 against a judge or a member of the Board of Pardons and Parole or acting against

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- 5970 a family member of a judge or a member of the Board of Pardons and Parole,
5971 Section 76-8-316.6;
- 5972 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
5973 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
5974 (xxii) a felony violation of sexual battery, Section [~~76-9-702.1~~] 76-5-418;
5975 (xxiii) a felony violation of lewdness involving a child, Section [~~76-9-702.5~~] 76-5-420;
5976 (xxiv) a felony violation of abuse or desecration of a dead human body, Section [
5977 ~~76-9-704~~] 76-5-802;
- 5978 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section [
5979 ~~76-10-402~~] 76-15-302;
- 5980 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
5981 Section [~~76-10-403~~] 76-15-303;
- 5982 (xxvii) possession of a concealed firearm in the commission of a violent felony,
5983 Subsection [~~76-10-504(4)~~] 76-11-202(3)(c)(ii);
- 5984 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon[;
5985 ~~Subsection 76-10-1504(3)~~] as described in Subsection 76-9-1503(3)(b);
- 5986 (xxix) aggravated commercial obstruction, [~~Subsection 76-10-2402(2)~~] Section
5987 76-9-114;
- 5988 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section
5989 77-41-107;
- 5990 (xxxii) repeat violation of a protective order, Subsection 77-36-1.1(4); or
5991 (xxxii) violation of condition for release after arrest under Section 78B-7-802.

5992 Section 88. Section **53-10-801** is amended to read:

5993 **53-10-801 . Definitions.**

5994 For purposes of this part:

- 5995 (1) "Alleged sexual offender" means an individual or a minor regarding whom an
5996 indictment, petition, or an information has been filed or an arrest has been made alleging
5997 the commission of a sexual offense or an attempted sexual offense under Title 76,
5998 Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419,
5999 or 76-5-420, and regarding which:
6000 (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order

- 6001 based upon probable cause regarding the alleged offense; and
6002 (b) the judge has found probable cause to believe that the alleged victim has been
6003 exposed to conduct or activities that may result in an HIV infection as a result of the
6004 alleged offense.
- 6005 (2) "Department of Health and Human Services" means the Department of Health and
6006 Human Services created in Section 26B-1-201.
- 6007 (3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV)
6008 infection determined by current medical standards and detected by any of the following:
6009 (a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as
6010 Western blot or other method approved by the Utah State Health Laboratory.
6011 Western blot interpretation will be based on criteria currently recommended by the
6012 Association of State and Territorial Public Health Laboratory Directors;
6013 (b) presence of HIV antigen;
6014 (c) isolation of HIV; or
6015 (d) demonstration of HIV proviral DNA.
- 6016 (4) "HIV positive individual" means an individual who is HIV positive as determined by
6017 the State Health Laboratory.
- 6018 (5) "Local department of health" means a local health department as defined in Section
6019 26A-1-102.
- 6020 (6) "Minor" means an individual younger than 18 years old.
- 6021 (7) "Positive" means an indication of the HIV infection as defined in Subsection (3).
- 6022 (8) "Sexual offense" means a violation of any offense under Title 76, Chapter 5, Part 4,
6023 Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
- 6024 (9) "Test" or "testing" means a test or tests for HIV infection conducted by and in
6025 accordance with standards recommended by the Department of Health and Human
6026 Services.

6027 Section 89. Section **53-10-803** is amended to read:

6028 **53-10-803 . Voluntary testing -- Victim to request -- Costs paid by Utah Office**
6029 **for Victims of Crime.**

- 6030 (1) A victim or minor victim of a sexual offense as provided under Title 76, Chapter 5, Part
6031 4, Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420,

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6032 may request a test for the HIV infection.

6033 (2)(a) The local health department shall obtain the blood specimen from the victim and
6034 forward the specimen to the Department of Health.

6035 (b) The Department of Health shall analyze the specimen of the victim.

6036 (3) The testing shall consist of a base-line test of the victim at the time immediately or as
6037 soon as possible after the alleged occurrence of the sexual offense. If the base-line test
6038 result is not positive, follow-up testing shall occur at three months and six months after
6039 the alleged occurrence of the sexual offense.

6040 (4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the
6041 victim provides a substantiated claim of the sexual offense, does not test HIV positive at
6042 the base-line testing phase, and complies with eligibility criteria established by the Utah
6043 Office for Victims of Crime.

6044 Section 90. Section **53-13-116** is amended to read:

6045 **53-13-116 . Report required after pointing a firearm at an individual.**

6046 (1) As used in this section:

6047 (a) "Conductive energy device" means a weapon that uses electrical current to disrupt
6048 voluntary control of muscles.

6049 (b) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.

6050 (c) "Law enforcement officer" means the same as that term is defined in Section
6051 53-13-103.

6052 (d) "Officer-involved critical incident" means the same as that term is defined in Section
6053 76-2-408.

6054 (2) A law enforcement officer shall file a report described in Subsection (3) if, during the
6055 performance of the officer's duties:

6056 (a) the officer points a firearm at an individual; or

6057 (b) the officer aims a conductive energy device at an individual and displays the
6058 electrical current.

6059 (3)(a) A report described in Subsection (2) shall include:

6060 (i) a description of the incident;

6061 (ii) the identification of the individuals involved in the incident; and

6062 (iii) any other information required by the law enforcement agency.

6063 (b) A law enforcement officer shall submit a report required under Subsection (2) to the
6064 officer's law enforcement agency within 48 hours after the incident.

6065 (4) A supervisory law enforcement officer shall review a report submitted under Subsection
6066 (3)(b).

6067 (5) This section does not apply to:

6068 (a) law enforcement training exercises; or

6069 (b) an officer who, as part of an officer-involved critical incident, engaged in conduct
6070 described under Subsection (2)(a) or (2)(b).

6071 Section 91. Section **53-22-105** is amended to read:

6072 **53-22-105 . School guardian program.**

6073 (1) As used in this section:

6074 (a) "Annual training" means an annual four-hour training that:

6075 (i) a county security chief or a designee administers;

6076 (ii) the state security chief approves;

6077 (iii) can be tailored to local needs;

6078 (iv) allows an individual to practice and demonstrate firearms proficiency at a

6079 firearms range using the firearm the individual carries for self defense and defense
6080 of others;

6081 (v) includes the following components:

6082 (A) firearm safety, including safe storage of a firearm;

6083 (B) de-escalation tactics;

6084 (C) the role of mental health in incidents; and

6085 (D) disability awareness and interactions; and

6086 (vi) contains other training needs as determined by the state security chief.

6087 (b) "Biannual training" means a twice-yearly training that:

6088 (i) is at least four hours, unless otherwise approved by the state security chief;

6089 (ii) a county security chief or a designee administers;

6090 (iii) the state security chief approves;

6091 (iv) can be tailored to local needs; and

6092 (v) through which a school guardian at a school or simulated school environment:

6093 (A) receives training on the specifics of the building or buildings of the school,

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- 6094 including the location of emergency supplies and security infrastructure; and
6095 (B) participates in a live-action practice plan with school administrators in
6096 responding to active threats at the school; and
6097 (vi) shall be taken with at least three months in between the two trainings.
6098 (c) "Firearm" means the same as that term is defined in Section [~~76-10-504~~] 76-11-101.
6099 (d) "Initial training" means an in-person training that:
6100 (i) a county security chief or a designee administers;
6101 (ii) the state security chief approves;
6102 (iii) can be tailored to local needs; and
6103 (iv) provides:
6104 (A) training on general familiarity with the types of firearms that can be concealed
6105 for self-defense and defense of others;
6106 (B) training on the safe loading, unloading, storage, and carrying of firearms in a
6107 school setting;
6108 (C) training at a firearms range with instruction regarding firearms fundamentals,
6109 marksmanship, the demonstration and explanation of the difference between
6110 sight picture, sight alignment, and trigger control, and a recognized pistol
6111 course;
6112 (D) current laws dealing with the lawful use of a firearm by a private citizen,
6113 including laws on self-defense, defense of others, transportation of firearms,
6114 and concealment of firearms;
6115 (E) coordination with law enforcement officers in the event of an active threat;
6116 (F) basic trauma first aid;
6117 (G) the appropriate use of force, emphasizing the de-escalation of force and
6118 alternatives to using force;
6119 (H) situational response evaluations, including:
6120 (I) protecting and securing a crime or accident scene;
6121 (II) notifying law enforcement;
6122 (III) controlling information; and
6123 (IV) other training that the county sheriff, designee, or department deems
6124 appropriate.

- 6125 (e) "Program" means the school guardian program created in this section.
- 6126 (f)(i) "School employee" means an employee of a school whose duties and
6127 responsibilities require the employee to be physically present at a school's campus
6128 while school is in session.
- 6129 (ii) "School employee" does not include a principal, teacher, or individual whose
6130 primary responsibilities require the employee to be primarily present in a
6131 classroom to teach, care for, or interact with students, unless:
- 6132 (A) the principal, teacher, or individual is employed at a school with 100 or fewer
6133 students;
- 6134 (B) the principal, teacher, or individual is employed at a school with adjacent
6135 campuses as determined by the state security chief; or
6136 (C) as provided in Subsection 53G-8-701.5(3).
- 6137 (g) "School guardian" means a school employee who meets the requirements of
6138 Subsection (3).
- 6139 (2)(a)(i) There is created within the department the school guardian program;
- 6140 (ii) the state security chief shall oversee the school guardian program;
- 6141 (iii) the applicable county security chief shall administer the school guardian program
6142 in each county.
- 6143 (b) The state security chief shall ensure that the school guardian program includes:
- 6144 (i) initial training;
- 6145 (ii) biannual training; and
- 6146 (iii) annual training.
- 6147 (c) A county sheriff may partner or contract with:
- 6148 (i) another county sheriff to support the respective county security chiefs in jointly
6149 administering the school guardian program in the relevant counties; and
- 6150 (ii) a local law enforcement agency of relevant jurisdiction to provide the:
- 6151 (A) initial training;
- 6152 (B) biannual training; and
- 6153 (C) annual training.
- 6154 (3)(a) A school employee that volunteers to participate is eligible to join the program as
6155 a school guardian if:

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- 6156 (i) the school administrator approves the volunteer school employee to be designated
6157 as a school guardian;
- 6158 (ii) the school employee satisfactorily completes initial training within six months
6159 before the day on which the school employee joins the program;
- 6160 (iii) the school employee holds a valid concealed carry permit issued under Title 53,
6161 Chapter 5, Part 7, Concealed Firearm Act;
- 6162 (iv) the school employee certifies to the sheriff of the county where the school is
6163 located that the school employee has undergone the training in accordance with
6164 Subsection (3)(a)(ii) and intends to serve as a school guardian; and
- 6165 (v) the school employee successfully completes a mental health screening selected by
6166 the state security chief in collaboration with the Office of Substance Abuse and
6167 Mental Health established in Section 26B-5-102.
- 6168 (b) After joining the program a school guardian shall complete annual training and
6169 biannual training to retain the designation of a school guardian in the program.
- 6170 (4) The state security chief shall:
- 6171 (a) for each school that participates in the program, track each school guardian at the
6172 school by collecting the photograph and the name and contact information for each
6173 guardian;
- 6174 (b) make the information described in Subsection (4)(a) readily available to each law
6175 enforcement agency in the state categorized by school; and
- 6176 (c) provide each school guardian with a one-time stipend of \$500.
- 6177 (5) A school guardian:
- 6178 (a) may store the school guardian's firearm on the grounds of a school only if:
6179 (i) the firearm is stored in a biometric gun safe;
6180 (ii) the biometric gun safe is located in the school guardian's office; and
6181 (iii) the school guardian is physically present on the grounds of the school while the
6182 firearm is stored in the safe;
- 6183 (b) shall carry the school guardian's firearm in a concealed manner; and
- 6184 (c) may not, unless during an active threat, display or open carry a firearm while on
6185 school grounds.
- 6186 (6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who

- 6187 has a valid concealed carry permit but is not participating in the program from carrying a
6188 firearm on the grounds of a public school or charter school under Subsection [
6189 ~~76-10-505.5(4)~~ 76-11-204(4)].
- 6190 (7) A school guardian:
- 6191 (a) does not have authority to act in a law enforcement capacity; and
- 6192 (b) may, at the school where the school guardian is employed:
- 6193 (i) take actions necessary to prevent or abate an active threat; and
- 6194 (ii) temporarily detain an individual when the school guardian has reasonable cause
6195 to believe the individual has committed or is about to commit a forcible felony, as
6196 that term is defined in Section 76-2-402.
- 6197 (8) A school may designate a single volunteer or multiple volunteers to participate in the
6198 school guardian program to satisfy the school safety personnel requirements of Section
6199 53G-8-701.5.
- 6200 (9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative
6201 Rulemaking Act, rules to administer this section.
- 6202 (10) A school guardian who has active status in the guardian program is not liable for any
6203 civil damages or penalties if the school guardian:
- 6204 (a) when carrying or storing a firearm:
- 6205 (i) is acting in good faith; and
- 6206 (ii) is not grossly negligent; or
- 6207 (b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be
6208 necessary in compliance with Section 76-2-402.
- 6209 (11) A school guardian shall file a report described in Subsection (12) if, during the
6210 performance of the school guardian's duties, the school guardian points a firearm at an
6211 individual.
- 6212 (12)(a) A report described in Subsection (11) shall include:
- 6213 (i) a description of the incident;
- 6214 (ii) the identification of the individuals involved in the incident; and
- 6215 (iii) any other information required by the state security chief.
- 6216 (b) A school guardian shall submit a report required under Subsection (11) to the school
6217 administrator, school safety and security director, and the state security chief within

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6218 48 hours after the incident.

6219 (c) The school administrator, school safety and security director, and the state security
6220 chief shall consult and review the report submitted under Subsection (12)(b).

6221 (13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

6222 (14) A school guardian may have the designation of school guardian revoked at any time by
6223 the school principal, county sheriff, or state security chief.

6224 (15)(a) Any information or record created detailing a school guardian's participation in
6225 the program is:

6226 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government
6227 Records Access and Management Act; and

6228 (ii) available only to:

6229 (A) the state security chief;

6230 (B) administrators at the school guardian's school;

6231 (C) if applicable, other school safety personnel described in Section 53G-8-701.5;

6232 (D) a local law enforcement agency that would respond to the school in case of an
6233 emergency; and

6234 (E) the individual designated by the county sheriff in accordance with Section
6235 53-22-103 of the county of the school where the school guardian in the
6236 program is located.

6237 (b) The information or record described in Subsection (15)(a) includes information
6238 related to the school guardian's identity and activity within the program as described
6239 in this section and any personal identifying information of a school guardian
6240 participating in the program collected or obtained during initial training, annual
6241 training, and biannual training.

6242 (c) An individual who intentionally or knowingly provides the information described in
6243 Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is
6244 guilty of a class B misdemeanor.

6245 Section 92. Section **53-22-107** is amended to read:

6246 **53-22-107 . Educator-Protector Program.**

6247 (1) As used in this section:

6248 (a) "Annual classroom response training" means a training for a teacher:

- 6249 (i) that is held at least once a year and is administered, at no cost to a teacher, by the
6250 individual identified by the county sheriff as described in Section 53-22-103; and
6251 (ii) where the teacher is trained:
6252 (A) on how to defend a classroom against active threats emphasizing the teacher's
6253 role in stationary defense; and
6254 (B) on the safe loading, unloading, storage, and carrying of firearms in a school
6255 setting.
- 6256 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
6257 (c) "Local education agency" means the same as that term is defined in Section
6258 53E-1-102.
6259 (d) "Program" means the Educator-Protector Program created under this section.
6260 (e) "Teacher" means an individual employed by a local education agency who has an
6261 assignment to teach in a classroom.
- 6262 (2) There is created the Educator-Protector Program to incentivize a teacher to responsibly
6263 secure or carry a firearm on the grounds of the school where the teacher is employed.
- 6264 (3)(a) To participate in the program, a teacher shall:
6265 (i) have completed an annual classroom response training within six months before
6266 the day on which the teacher joins the program;
6267 (ii) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7,
6268 Concealed Firearm Act; and
6269 (iii) certify to the department that:
6270 (A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and
6271 (3)(a)(ii); and
6272 (B) if applicable, intends to securely store or carry a firearm on the grounds of a
6273 school where the teacher is employed.
- 6274 (b) After joining the program, to retain the teacher's active status in the program, a
6275 teacher shall:
6276 (i) participate in annual classroom response training; and
6277 (ii) comply with any rules established by the department in accordance with
6278 Subsection (10).
- 6279 (4)(a) The state security chief shall:

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- 6280 (i) track each teacher that participates in the program by collecting a photograph,
6281 name, and contact information for each teacher;
- 6282 (ii) make the information described in Subsection (4)(a) readily available to each law
6283 enforcement agency in the state; and
- 6284 (iii) provide reasonable reimbursement, using funds appropriated by the Legislature,
6285 to a county sheriff for providing a teacher with annual classroom response training.
- 6286 (b) The state security chief shall categorize the information described in Subsection
6287 (4)(a)(i) by school.
- 6288 (5) A teacher participating in the program:
- 6289 (a) may store the teacher's firearm on the grounds of a school only if:
- 6290 (i) the firearm is stored in a biometric gun safe;
- 6291 (ii) the biometric gun safe is located in the teacher's classroom or office; and
- 6292 (iii) the teacher is physically present on the grounds of the school while the firearm is
6293 stored in the biometric gun safe; and
- 6294 (b) shall carry the teacher's firearm in a concealed manner unless during an active threat.
- 6295 (6) This section does not prohibit an individual who has a valid concealed carry permit but
6296 is not participating in the program from carrying firearms on the grounds of a school as
6297 described in Subsection ~~[76-10-505.5(4)]~~ 76-11-204(4).
- 6298 (7)(a) A teacher who has active status in the program is not liable for any civil damages
6299 or penalties if the teacher:
- 6300 (i) when carrying or storing a firearm:
- 6301 (A) is acting in good faith; and
- 6302 (B) is not grossly negligent; or
- 6303 (ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be
6304 necessary in compliance with Section 76-2-402.
- 6305 (b) A local education agency is not liable for civil damages or penalties resulting from a
6306 teacher who is participating in the program carrying, using, or storing a firearm at a
6307 school.
- 6308 (8) A local education agency may not prevent a teacher from participating in the program
6309 under this section.
- 6310 (9)(a) Any information or record created detailing a teacher's participation in the

- 6311 program is:
- 6312 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government
- 6313 Records Access and Management Act; and
- 6314 (ii) available only to:
- 6315 (A) the state security chief;
- 6316 (B) a local law enforcement agency that would respond to the school in case of an
- 6317 emergency; and
- 6318 (C) the individual identified by the county sheriff as described in Section
- 6319 53-22-103.
- 6320 (b) The information or record described in Subsection (9)(a) includes the information
- 6321 described in Subsection (4)(a)(i) and any personal identifying information of a
- 6322 teacher participating in the program collected or obtained during annual classroom
- 6323 response training.
- 6324 (c) An individual who intentionally or knowingly provides the information described in
- 6325 Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty
- 6326 of a class A misdemeanor.
- 6327 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6328 department may adopt rules to administer this section.
- 6329 Section 93. Section **53-25-103** is amended to read:
- 6330 **53-25-103 . Airport dangerous weapon possession reporting requirements.**
- 6331 (1) As used in this section, "commission" means the State Commission on Criminal and
- 6332 Juvenile Justice created in Section 63M-7-201.
- 6333 (2) Beginning on January 1, 2026, a law enforcement agency having law enforcement
- 6334 jurisdiction over an airport shall annually, on or before April 30, submit a report to the
- 6335 commission detailing:
- 6336 (a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~] 76-11-215(2)(a):
- 6337 (i) the number of issued written warnings;
- 6338 (ii) the number of issued citations;
- 6339 (iii) the number of referrals to a detective; and
- 6340 (iv) the number of referrals to a prosecutor; and
- 6341 (b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~] 76-11-215(2)(b):

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- 6342 (i) the number of issued written warnings; and
6343 (ii) if applicable, the number of issued citations, including the number of individuals
6344 who have received more than one citation for the offense.

6345 (3) The commission shall:

- 6346 (a) develop a standardized format for reporting the data described in Subsection (2);
6347 (b) compile the data submitted under Subsection (2); and
6348 (c) annually on or before August 1, publish a report of the data described in Subsection
6349 (2) on the commission's website.

6350 Section 94. Section **53-25-202** is amended to read:

6351 **53-25-202 . Sexual assault offense reporting requirements for law enforcement**
6352 **agencies.**

6353 (1) As used in this section:

6354 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created
6355 in Section 63M-7-201.

6356 (b) "Sexual assault offense" means:

- 6357 (i) rape, Section 76-5-402;
6358 (ii) rape of a child, Section 76-5-402.1;
6359 (iii) object rape, Section 76-5-402.2;
6360 (iv) object rape of a child, Section 76-5-402.3;
6361 (v) forcible sodomy, Section 76-5-403;
6362 (vi) sodomy on a child, Section 76-5-403.1;
6363 (vii) forcible sexual abuse, Section 76-5-404;
6364 (viii) sexual abuse of a child, Section 76-5-404.1;
6365 (ix) aggravated sexual abuse of a child, Section 76-5-404.3;
6366 (x) aggravated sexual assault, Section 76-5-405; or
6367 (xi) sexual battery, Section [~~76-9-702.1~~] 76-5-418.

6368 (2)(a) Beginning January 1, 2025, a law enforcement agency shall:

- 6369 (i) annually, on or before April 30, submit a report to the commission for the previous
6370 calendar year containing the number of each type of sexual assault offense that:
6371 (A) was reported to the law enforcement agency;
6372 (B) was investigated by a detective; and

- 6373 (C) was referred to a prosecutor for prosecution; and
- 6374 (ii) submit a report to the commission on whether the law enforcement agency has
- 6375 created and publicly posted on the law enforcement agency's website:
- 6376 (A) the policy described in Subsection 53-24-101(1)(a); and
- 6377 (B) the guide described in Subsection 53-24-101(2)(a).
- 6378 (b) A law enforcement agency shall:
- 6379 (i) compile the report described in Subsection (2)(a)(i) for each calendar year in the
- 6380 standardized format developed by the commission under Subsection (3); and
- 6381 (ii) publicly post the information reported in Subsection (2)(a)(i) on the law
- 6382 enforcement agency's website.
- 6383 (3) The commission shall:
- 6384 (a) develop a standardized format for reporting the data described in Subsection (2);
- 6385 (b) compile the data submitted under Subsection (2); and
- 6386 (c) annually on or before August 1, publish a report of the data described in Subsection
- 6387 (2) on the commission's website.
- 6388 Section 95. Section **53-25-501** is amended to read:
- 6389 **53-25-501 . Reporting requirements for seized firearms.**
- 6390 (1) As used in this section:
- 6391 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created
- 6392 in Section 63M-7-201.
- 6393 (b) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 6394 (c) "Restricted person" means a Category I or Category II restricted person as defined in
- 6395 Section ~~[76-10-503]~~ 76-11-302.
- 6396 (2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of
- 6397 Corrections, shall annually on or before April 30 report to the commission the following
- 6398 data for the previous calendar year:
- 6399 (a) the number of firearms the law enforcement agency lawfully seized from restricted
- 6400 persons;
- 6401 (b) the types of firearms the law enforcement agency lawfully seized from restricted
- 6402 persons;
- 6403 (c) information on where the restricted persons obtained the firearms seized by the law

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6404 enforcement agency if the information is known or discoverable by the law
6405 enforcement agency; and
6406 (d) the reasons under Subsection [~~76-10-503(1)(a)~~] 76-11-302(1)(a) or (b) that made
6407 the individuals who had weapons seized restricted persons.
6408 Section 96. Section **53-25-601** is enacted to read:

6409 **Part 6. Requirements Related to Criminal Street Gangs**

6410 **53-25-601 . Definitions.**

6411 As used in this part:

- 6412 (1) "Criminal street gang" means the same as that term is defined in Section 76-9-802.
6413 (2) "Gang loitering" means the same as that term is defined in Section 76-9-802.
6414 (3) "Public place" means the same as that term is defined in Section 76-9-802.

6415 Section 97. Section **53-25-602**, which is renumbered from Section 76-9-903 is renumbered
6416 and amended to read:

6417 **[~~76-9-903~~] 53-25-602 . Law enforcement officer responsibilities for gang loitering.**

6418 (1) [~~When-~~] If a law enforcement officer observes [~~a person~~] an individual whom the law
6419 enforcement officer reasonably believes to be a member of a criminal street gang

6420 engaging in gang loitering in the presence of one or more other [~~persons~~] individuals in [
6421 any] a public place that is designated by a municipal or county legislative body as an area
6422 where gang loitering is prohibited under Section [~~76-9-905~~] 11-48-104 and subject to the
6423 penalties under Section 76-9-805, the [~~police~~] law enforcement officer shall:

- 6424 (a) inform[~~-all the persons that they are-~~] the individual and all other individuals
6425 engaging in gang loitering with the individual in a group that [~~within an~~] the area in
6426 which the group is loitering by a group containing one or more criminal street gang
6427 members is prohibited;
- 6428 (b) order [~~all the persons in the group~~] the individual to disperse and remove [~~themselves-~~
6429 the individual from within sight and hearing of the location where the officer issues
6430 the order to disperse; and
- 6431 (c) inform the [~~persons~~] individuals that any [~~person~~] individual in the group will be
6432 subject to being charged with a criminal offense and will also be subject to arrest if
6433 the [~~person~~] individual fails to promptly obey the order to disperse.
- 6434 (2) The law enforcement officer under Subsection (1) shall also advise the [~~persons~~]

6435 individuals the law enforcement officer is directing to disperse that each of the [persons]
6436 individuals directed to disperse is subject to being charged with a criminal offense and
6437 will also be subject to arrest if the [person] individual is again, within eight hours after
6438 the current order to disperse is made:

6439 (a) present in a public place with a group that includes one or more [persons] individuals
6440 a [peace] law enforcement officer reasonably believes to be a member of a criminal
6441 street gang; and

6442 (b) within sight or hearing of the location where the law enforcement officer is currently
6443 issuing the order to disperse.

6444 (3) This section does not affect or limit an individual's constitutional right to engage in
6445 collective advocacy activities that are protected by the constitution or laws of this state
6446 or by the constitution or laws of the United States.

6447 (4) A sheriff or chief of police implementing this section shall:

6448 (a) issue a written directive to all agency employees that provides information on
6449 preventing the enforcement of this section against individuals who are engaged in
6450 constitutionally protected collective advocacy activities;

6451 (b) ensure that all law enforcement officers charged with enforcing this section
6452 successfully complete appropriate training on identification of gang members and
6453 criminal street gangs; and

6454 (c) ensure that any training described in this section complies with Title 63G, Chapter
6455 22, State Training and Certification Requirements.

6456 Section 98. Section **53B-16-601** is amended to read:

6457 **53B-16-601 . Definitions.**

6458 As used in this part:

6459 (1) "Institution" means:

6460 (a) an institution of higher education described in Section 53B-1-102; or

6461 (b) a private, nonprofit institution of higher education.

6462 (2) "Intercollegiate athletics program" means an institution-sponsored athletic program or
6463 sporting activity in which a student athlete represents the student athlete's institution in
6464 competition against another institution.

6465 (3) "Prohibited endorsement provision" means a provision that requires or permits the use

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- 6466 of a student athlete's name, image, or likeness to promote:
- 6467 (a) a tobacco product or [~~e-cigarettes~~] electronic cigarette, as those terms are defined in
- 6468 Section [~~76-10-101~~] 76-9-1101, including vaping;
- 6469 (b) an alcoholic product, as that term is defined in Section 32B-1-102;
- 6470 (c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and
- 6471 marijuana;
- 6472 (d) gambling or betting;
- 6473 (e) a sexually oriented business, as that term is defined in Section 17-50-331; or
- 6474 (f) a firearm that the student athlete cannot legally purchase.
- 6475 (4)(a) "Student athlete" means an individual who:
- 6476 (i) is enrolled in an institution; and
- 6477 (ii) participates as an athlete for the institution in an intercollegiate athletics program.
- 6478 (b) "Student athlete" includes an agent or other representative of a student athlete.
- 6479 (5) "Student athlete agreement" means a proposed or executed contract:
- 6480 (a) between a student athlete and a third party that is not an institution; and
- 6481 (b) in which the student athlete and third party agree that the student athlete's name,
- 6482 image, or likeness may be used to promote a business, product, service, or individual
- 6483 in exchange for the student athlete receiving financial compensation or other benefits.
- 6484 Section 99. Section **53G-1-103** is amended to read:
- 6485 **53G-1-103 . Definitions.**
- 6486 As used in this title, "electronic cigarette product" means the same as that term is
- 6487 defined in Section [~~76-10-101~~] 76-9-1101.
- 6488 Section 100. Section **53G-4-402** is amended to read:
- 6489 **53G-4-402 . Powers and duties generally.**
- 6490 (1) A local school board shall:
- 6491 (a) implement the core standards for Utah public schools using instructional materials
- 6492 that best correlate to the core standards for Utah public schools and graduation
- 6493 requirements;
- 6494 (b) administer tests, required by the state board, which measure the progress of each
- 6495 student, and coordinate with the state superintendent and state board to assess results
- 6496 and create plans to improve the student's progress, which shall be submitted to the

- 6497 state board for approval;
- 6498 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
6499 students that need remediation and determine the type and amount of federal, state,
6500 and local resources to implement remediation;
- 6501 (d) for each grading period and for each course in which a student is enrolled, issue a
6502 grade or performance report to the student:
- 6503 (i) that reflects the student's work, including the student's progress based on mastery,
6504 for the grading period; and
- 6505 (ii) in accordance with the local school board's adopted grading or performance
6506 standards and criteria;
- 6507 (e) develop early warning systems for students or classes failing to make progress;
- 6508 (f) work with the state board to establish a library of documented best practices,
6509 consistent with state and federal regulations, for use by the special districts;
- 6510 (g) implement training programs for school administrators, including basic management
6511 training, best practices in instructional methods, budget training, staff management,
6512 managing for learning results and continuous improvement, and how to help every
6513 student achieve optimal learning in basic academic subjects; and
- 6514 (h) ensure that the local school board meets the data collection and reporting standards
6515 described in Section 53E-3-501.
- 6516 (2) Local school boards shall spend Minimum School Program funds for programs and
6517 activities for which the state board has established minimum standards or rules under
6518 Section 53E-3-501.
- 6519 (3)(a) A local school board may purchase, sell, and make improvements on school sites,
6520 buildings, and equipment, and construct, erect, and furnish school buildings.
- 6521 (b) School sites or buildings may only be conveyed or sold on local school board
6522 resolution affirmed by at least two-thirds of the school board members.
- 6523 (4)(a) A local school board may participate in the joint construction or operation of a
6524 school attended by students residing within the district and students residing in other
6525 districts either within or outside the state.
- 6526 (b) Any agreement for the joint operation or construction of a school shall:
- 6527 (i) be signed by the president of the local school board of each participating district;

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- 6528 (ii) include a mutually agreed upon pro rata cost; and
6529 (iii) be filed with the state board.
- 6530 (5) A local school board may establish, locate, and maintain elementary, secondary, and
6531 applied technology schools.
- 6532 (6) A local school board may enter into cooperative agreements with other local school
6533 boards to provide educational services that best utilize resources for the overall
6534 operation of the school districts, including shared transportation services.
- 6535 (7) A local school board shall ensure that an agreement under Subsection (6):
6536 (a) is signed by the president of the local school board of each participating district;
6537 (b) specifies the resource being shared;
6538 (c) includes a mutually agreed upon pro rata cost;
6539 (d) includes the duration of the agreement; and
6540 (e) is filed with the state board.
- 6541 (8) Except as provided in Section 53E-3-905, a local school board may enroll children in
6542 school who are at least five years old before September 2 of the year in which admission
6543 is sought.
- 6544 (9) A local school board:
6545 (a) may establish and support school libraries; and
6546 (b) shall provide an online platform:
6547 (i) through which a parent is able to view the title, author, and a description of any
6548 material the parent's child borrows from the school library, including a history of
6549 borrowed materials, either using an existing online platform that the LEA uses or
6550 through a separate platform; and
6551 (ii)(A) for a school district with 1,000 or more enrolled students, no later than
6552 August 1, 2024; and
6553 (B) for a school district with fewer than 1,000 enrolled students, no later than
6554 August 1, 2026.
- 6555 (10) A local school board may collect damages for the loss, injury, or destruction of school
6556 property.
- 6557 (11) A local school board may authorize guidance and counseling services for students and
6558 the student's parents before, during, or following school enrollment.

- 6559 (12)(a) A local school board shall administer and implement federal educational
6560 programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or
6561 National Education Programs.
- 6562 (b) Federal funds are not considered funds within the school district budget under
6563 Chapter 7, Part 3, Budgets.
- 6564 (13)(a) A local school board may organize school safety patrols and adopt policies
6565 under which the patrols promote student safety.
- 6566 (b) A student appointed to a safety patrol shall be at least 10 years old and have written
6567 parental consent for the appointment.
- 6568 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of
6569 a highway intended for vehicular traffic use.
- 6570 (d) Liability may not attach to a school district, its employees, officers, or agents, or to a
6571 safety patrol member, a parent of a safety patrol member, or an authorized volunteer
6572 assisting the program by virtue of the organization, maintenance, or operation of a
6573 school safety patrol.
- 6574 (14)(a) A local school board may on its own behalf, or on behalf of an educational
6575 institution for which the local school board is the direct governing body, accept
6576 private grants, loans, gifts, endowments, devises, or bequests that are made for
6577 educational purposes.
- 6578 (b) The contributions made under Subsection (14)(a) are not subject to appropriation by
6579 the Legislature.
- 6580 (15)(a) A local school board may appoint and fix the compensation of a compliance
6581 officer to issue citations for violations of Subsection [~~76-10-105(2)(b)~~]
6582 76-9-1106(3)(c).
- 6583 (b) A person may not be appointed to serve as a compliance officer without the person's
6584 consent.
- 6585 (c) A teacher or student may not be appointed as a compliance officer.
- 6586 (16) A local school board shall adopt bylaws and policies for the local school board's own
6587 procedures.
- 6588 (17)(a) A local school board shall make and enforce policies necessary for the control
6589 and management of the district schools.

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- 6590 (b) Local school board policies shall be in writing, filed, and referenced for public
6591 access.
- 6592 (18) A local school board may hold school on legal holidays other than Sundays.
- 6593 (19)(a) A local school board shall establish for each school year a school traffic safety
6594 committee to implement this Subsection (19).
- 6595 (b) The committee shall be composed of one representative of:
- 6596 (i) the schools within the district;
- 6597 (ii) the Parent Teachers' Association of the schools within the district;
- 6598 (iii) the municipality or county;
- 6599 (iv) state or local law enforcement; and
- 6600 (v) state or local traffic safety engineering.
- 6601 (c) The committee shall:
- 6602 (i) receive suggestions from school community councils, parents, teachers, and
6603 others, and recommend school traffic safety improvements, boundary changes to
6604 enhance safety, and school traffic safety program measures;
- 6605 (ii) review and submit annually to the Department of Transportation and affected
6606 municipalities and counties a child access routing plan for each elementary,
6607 middle, and junior high school within the district;
- 6608 (iii) in consultation with the Utah Safety Council and the Division of Family Health
6609 Services, provide training to all students in kindergarten through grade 6, within
6610 the district, on school crossing safety and use; and
- 6611 (iv) help ensure the district's compliance with rules made by the Department of
6612 Transportation under Section 41-6a-303.
- 6613 (d) The committee may establish subcommittees as needed to assist in accomplishing the
6614 committee's duties under Subsection (19)(c).
- 6615 (20)(a) A local school board shall adopt and implement a comprehensive emergency
6616 response plan to prevent and combat violence in the local school board's public
6617 schools, on school grounds, on school vehicles, and in connection with
6618 school-related activities or events.
- 6619 (b) The local school board shall ensure that the plan:
- 6620 (i) includes prevention, intervention, and response components;

- 6621 (ii) is consistent with the school discipline and conduct policies required for school
6622 districts under Chapter 8, Part 2, School Discipline and Conduct Plans;
- 6623 (iii) requires professional learning for all district and school building staff on the
6624 staff's roles in the emergency response plan;
- 6625 (iv) provides for coordination with local law enforcement and other public safety
6626 representatives in preventing, intervening, and responding to violence in the areas
6627 and activities referred to in Subsection (20)(a); and
- 6628 (v) includes procedures to notify a student who is off campus at the time of a school
6629 violence emergency because the student is:
- 6630 (A) participating in a school-related activity; or
6631 (B) excused from school for a period of time during the regular school day to
6632 participate in religious instruction at the request of the student's parent.
- 6633 (c) The state board, through the state superintendent, shall develop comprehensive
6634 emergency response plan models that local school boards may use, where
6635 appropriate, to comply with Subsection (20)(a).
- 6636 (d) A local school board shall, by July 1 of each year, certify to the state board that its
6637 plan has been practiced at the school level and presented to and reviewed by its
6638 teachers, administrators, students, and the student's parents and local law enforcement
6639 and public safety representatives.
- 6640 (21)(a) A local school board may adopt an emergency response plan for the treatment of
6641 sports-related injuries that occur during school sports practices and events.
- 6642 (b) The plan may be implemented by each secondary school in the district that has a
6643 sports program for students.
- 6644 (c) The plan may:
- 6645 (i) include emergency personnel, emergency communication, and emergency
6646 equipment components;
- 6647 (ii) require professional learning on the emergency response plan for school
6648 personnel who are involved in sports programs in the district's secondary schools;
6649 and
- 6650 (iii) provide for coordination with individuals and agency representatives who:
6651 (A) are not employees of the school district; and

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- 6652 (B) would be involved in providing emergency services to students injured while
6653 participating in sports events.
- 6654 (d) The local school board, in collaboration with the schools referred to in Subsection
6655 (21)(b), may review the plan each year and make revisions when required to improve
6656 or enhance the plan.
- 6657 (e) The state board, through the state superintendent, shall provide local school boards
6658 with an emergency plan response model that local school boards may use to comply
6659 with the requirements of this Subsection (21).
- 6660 (22)(a) A local school board shall approve an LEA's policies and procedures that an
6661 LEA develops to ensure that students have non-electronic notification of and access
6662 to:
- 6663 (i) school activities and events, including:
- 6664 (A) schedule changes;
- 6665 (B) extracurricular activities; and
- 6666 (C) sporting events; and
- 6667 (ii) the emergency response plans described in Subsections (20) and (21).
- 6668 (b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of
6669 and access to school activities and events as described in Subsections (22)(a)(i) and
6670 (ii) if:
- 6671 (i)(A) the school provides each student with an electronic device; and
- 6672 (B) the electronic device is capable of receiving electronic notification of and
6673 access to school activities and events as described in Subsections (22)(a)(i) and
6674 (ii); or
- 6675 (ii) an emergency, unforeseen circumstance, or other incident arises and an LEA
6676 cannot reasonably provide timely non-electronic notification.
- 6677 (c) An LEA may not require the use of a privately owned electronic device to complete
6678 course work.
- 6679 (23) A local school board shall do all other things necessary for the maintenance,
6680 prosperity, and success of the schools and the promotion of education.
- 6681 (24)(a) As used in this subsection, "special enrollment program" means a full-day
6682 academic program in which a parent opts to enroll the parent's student and that is

- 6683 offered at a specifically designated school within an LEA, including:
- 6684 (i) gifted or advanced learning programs; or
- 6685 (ii) dual language immersion programs.
- 6686 (b) Before closing a school, changing the boundaries of a school, or changing or closing
- 6687 the location of a special enrollment program, a local school board shall:
- 6688 (i) at a local school board meeting, make and approve a motion to initiate the
- 6689 notification required under Subsections (24)(b)(ii) through (iv);
- 6690 (ii) on or before 90 days before the day on which the local school board approves the
- 6691 school closure or at least 30 days before the day on which the local school board
- 6692 approves a school boundary change, provide notice that the local school board is
- 6693 considering the closure or boundary change to:
- 6694 (A) parents of students enrolled in the school, using the same form of
- 6695 communication the local school board regularly uses to communicate with
- 6696 parents and also by mail, using the United States Postal Service, to the parents
- 6697 at each known address;
- 6698 (B) parents of students enrolled in other schools within the school district that may
- 6699 be affected by the closure or boundary change, using the same form of
- 6700 communication the local school board regularly uses to communicate with
- 6701 parents and also by mail, using the United States Postal Service, to the parents
- 6702 at each known address; and
- 6703 (C) the governing council and the mayor of the municipality in which the school is
- 6704 located;
- 6705 (iii) provide an opportunity for public comment on the proposed school closure
- 6706 during at least two public local school board meetings;
- 6707 (iv) provide an opportunity for public comment on the proposed school boundary
- 6708 change during one public local school board meeting; and
- 6709 (v) hold a public hearing as defined in Section 10-9a-103 and provide public notice
- 6710 of the public hearing in accordance with Subsection (24)(c).
- 6711 (c) A local school board shall:
- 6712 (i) ensure that the notice of a public hearing required under Subsection (24)(b)(v)
- 6713 indicates the:

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- 6714 (A) name of the school or schools under consideration for closure or boundary
6715 change; and
- 6716 (B) the date, time, and location of the public hearing;
- 6717 (ii) if feasible, hold the public hearing at the location of the school that is under
6718 consideration for closure;
- 6719 (iii) for at least 10 days before the day on which the public hearing occurs, publish the
6720 notice of public hearing occurs, publish the notice of the public hearing for the
6721 school district in which the school is located, as a class A notice under Section
6722 63G-30-102; and
- 6723 (iv) at least 30 days before the day on which the public hearing occurs, provide notice
6724 of the public hearing in the same manner as the notice of consideration under
6725 Subsection (24)(b)(ii).
- 6726 (d) A motion made under Subsection (24)(b) shall name each school under consideration
6727 for closure in a separate motion.
- 6728 (e) For a school closure, a local school board shall complete the process described in this
6729 Subsection (24) on or before December 31 of the calendar year preceding the
6730 beginning of the school year in which a school closure takes effect.
- 6731 (f)(i) For a school boundary change, a local school board shall complete the process
6732 described in this Subsection (24) no more than 60 days after the day on which the
6733 local school board votes to approve a school closure.
- 6734 (ii) Parents of students enrolled in a school affected by a boundary change shall have
6735 at least 30 days after the day on which the local school board votes to approve a
6736 school boundary change to request an out of area enrollment request in accordance
6737 with Chapter 6, Part 4, School District Enrollment.
- 6738 (25) A local school board may implement a facility energy efficiency program established
6739 under Title 11, Chapter 44, Performance Efficiency Act.
- 6740 (26) A local school board may establish or partner with a certified youth court in
6741 accordance with Section 80-6-902 or establish or partner with a comparable restorative
6742 justice program, in coordination with schools in that district. A school may refer a
6743 student to a youth court or a comparable restorative justice program in accordance with
6744 Section 53G-8-211.

- 6745 (27)(a) As used in this Subsection (27):
- 6746 (i) "Learning material" means any learning material or resource used to deliver or
- 6747 support a student's learning, including textbooks, reading materials, videos, digital
- 6748 materials, websites, and other online applications.
- 6749 (ii)(A) "Instructional material" means learning material that a local school board
- 6750 adopts and approves for use within the LEA.
- 6751 (B) "Instructional material" does not include learning material used in a
- 6752 concurrent enrollment, advanced placement, or international baccalaureate
- 6753 program or class or another class with required instructional material that is not
- 6754 subject to selection by the local school board.
- 6755 (iii) "Supplemental material" means learning material that:
- 6756 (A) an educator selects for classroom use; and
- 6757 (B) a local school board has not considered and adopted, approved, or prohibited
- 6758 for classroom use within the LEA.
- 6759 (b) A local school board shall:
- 6760 (i) make instructional material that the school district uses readily accessible and
- 6761 available for a parent to view;
- 6762 (ii) annually notify a parent of a student enrolled in the school district of how to
- 6763 access the information described in Subsection (27)(b)(i); and
- 6764 (iii) include on the school district's website information about how to access the
- 6765 information described in Subsection (27)(b)(i).
- 6766 (c) In selecting and approving instructional materials for use in the classroom, a local
- 6767 school board shall:
- 6768 (i) establish an open process, involving educators and parents of students enrolled in
- 6769 the LEA, to review and recommend instructional materials for board approval; and
- 6770 (ii) ensure that under the process described in Subsection (27)(c)(i), the board:
- 6771 (A) before the meetings described in Subsection (27)(c)(ii)(B), posts the
- 6772 recommended learning material online to allow for public review or, for
- 6773 copyrighted material, makes the recommended learning material available at
- 6774 the LEA for public review;
- 6775 (B) before adopting or approving the recommended instructional materials, holds

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6776 at least two public meetings on the recommendation that provides an
6777 opportunity for educators whom the LEA employs and parents of students
6778 enrolled in the LEA to express views and opinions on the recommendation; and
6779 (C) adopts or approves the recommended instructional materials in an open and
6780 regular board meeting.

6781 (d) A local school board shall adopt a supplemental materials policy that provides
6782 flexible guidance to educators on the selection of supplemental materials or resources
6783 that an educator reviews and selects for classroom use using the educator's
6784 professional judgment, including whether any process or permission is required
6785 before classroom use of the materials or resources.

6786 (e) If an LEA contracts with another party to provide online or digital materials, the
6787 LEA shall include in the contract a requirement that the provider give notice to the
6788 LEA any time that the provider makes a material change to the content of the online
6789 or digital materials, excluding regular informational updates on current events.

6790 (f) Nothing in this Subsection (27) requires a local school board to review all learning
6791 materials used within the LEA.

6792 Section 101. Section **53G-6-204** is amended to read:

6793 **53G-6-204 . School-age children exempt from school attendance.**

6794 (1)(a) A local school board or charter school governing board may excuse a school-age
6795 child from attendance for any of the following reasons:

6796 (i) a school-age child over 16 years old may receive a partial release from school to
6797 enter employment, or attend a trade school, if the school-age child has completed
6798 grade 8; or

6799 (ii) on an annual basis, a school-age child may receive a full release from attending a
6800 public, regularly established private, or part-time school or class if:

6801 (A) the school-age child has already completed the work required for graduation
6802 from high school;

6803 (B) the school-age child is in a physical or mental condition, certified by a
6804 competent physician or physician assistant if required by the local school board
6805 or charter school governing board, which renders attendance inexpedient and
6806 impracticable;

- 6807 (C) proper influences and adequate opportunities for education are provided in
6808 connection with the school-age child's employment; or
6809 (D) the district superintendent or charter school governing board has determined
6810 that a school-age child over 16 years old is unable to profit from attendance at
6811 school because of inability or a continuing negative attitude toward school
6812 regulations and discipline.
- 6813 (b) A school-age child receiving a partial release from school under Subsection (1)(a)(i)
6814 is required to attend:
- 6815 (i) school part time as prescribed by the local school board or charter school
6816 governing board; or
6817 (ii) a home school part time.
- 6818 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
6819 must be sufficient to satisfy the local school board or charter school governing board.
- 6820 (d) A local school board or charter school governing board that excuses a school-age
6821 child from attendance as provided by this Subsection (1) shall issue a certificate that
6822 the child is excused from attendance during the time specified on the certificate.
- 6823 (2)(a)(i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or
6824 attempted felony offense of which an individual is convicted, or to which an
6825 individual pleads guilty or no contest, for conduct that constitutes any of the
6826 following:
- 6827 (A) child abuse under Section 76-5-109;
6828 (B) aggravated child abuse under Section 76-5-109.2;
6829 (C) child abandonment under Section 76-5-109.3;
6830 (D) commission of domestic violence in the presence of a child under Section
6831 76-5-114;
6832 (E) child abuse homicide under Section 76-5-208;
6833 (F) child kidnapping under Section 76-5-301.1;
6834 (G) human trafficking of a child under Section 76-5-308.5;
6835 (H) an offense described in:
6836 (I) [-]Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section
6837 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

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- 6838 (II) [-]in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under
6839 18 years old;
- 6840 (I) sexual exploitation of a minor under Section 76-5b-201;
- 6841 (J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or
- 6842 (K) an offense in another state that, if committed in this state, would constitute an
6843 offense described in this Subsection (2)(a)(i).
- 6844 (ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
6845 school-age child from attendance, if the school-age child's parent or legal guardian
6846 files a signed affidavit with the school-age child's school district of residence, as
6847 defined in Section 53G-6-302, that:
- 6848 (A) the school-age child will attend a home school; and
- 6849 (B) the parent or legal guardian assumes sole responsibility for the education of
6850 the school-age child, except to the extent the school-age child is dual enrolled
6851 in a public school as provided in Section 53G-6-702.
- 6852 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
6853 competent jurisdiction has made a substantiated finding of child abuse against the
6854 parent or legal guardian:
- 6855 (A) the parent or legal guardian may not assume responsibility for the education
6856 of a school-age child under Subsection (2)(a)(ii); and
- 6857 (B) the local school board may not accept the affidavit described in Subsection
6858 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age
6859 child from attendance under Subsection (2)(a)(ii) in relation to the parent's or
6860 legal guardian's intent to home school the child.
- 6861 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
6862 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the
6863 affidavit described in Subsection (2)(a)(ii).
- 6864 (b) A signed affidavit filed in accordance with Subsection (2)(a) shall remain in effect as
6865 long as:
- 6866 (i) the school-age child attends a home school;
- 6867 (ii) the school district where the affidavit was filed remains the school-age child's
6868 district of residence; and

- 6869 (iii) the parent or legal guardian who filed the signed affidavit has not been convicted
6870 of child abuse or been the subject of a substantiated finding of child abuse by a
6871 court of competent jurisdiction.
- 6872 (c) A parent or legal guardian of a school-age child who attends a home school is solely
6873 responsible for:
- 6874 (i) the selection of instructional materials and textbooks;
6875 (ii) the time, place, and method of instruction; and
6876 (iii) the evaluation of the home school instruction.
- 6877 (d) A local school board may not:
- 6878 (i) require a parent or legal guardian of a school-age child who attends a home school
6879 to maintain records of instruction or attendance;
6880 (ii) require credentials for individuals providing home school instruction;
6881 (iii) inspect home school facilities; or
6882 (iv) require standardized or other testing of home school students.
- 6883 (e) Upon the request of a parent or legal guardian, a local school board shall identify the
6884 knowledge, skills, and competencies a student is recommended to attain by grade
6885 level and subject area to assist the parent or legal guardian in achieving college and
6886 career readiness through home schooling.
- 6887 (f) A local school board that excuses a school-age child from attendance under this
6888 Subsection (2) shall annually issue a certificate stating that the school-age child is
6889 excused from attendance for the specified school year.
- 6890 (g) A local school board shall issue a certificate excusing a school-age child from
6891 attendance:
- 6892 (i) within 30 days after receipt of a signed affidavit filed by the school-age child's
6893 parent or legal guardian under this Subsection (2); and
6894 (ii) on or before August 1 each year thereafter unless:
- 6895 (A) the school-age child enrolls in a school within the school district;
6896 (B) the school-age child's parent or legal guardian notifies the school district that
6897 the school-age child no longer attends a home school; or
6898 (C) the school-age child's parent or legal guardian notifies the school district that
6899 the school-age child's school district of residence has changed.

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6900 (3) A parent or legal guardian who is eligible to file and files a signed affidavit under
6901 Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and
6902 (6).

6903 (4)(a) Nothing in this section may be construed to prohibit or discourage voluntary
6904 cooperation, resource sharing, or testing opportunities between a school or school
6905 district and a parent or legal guardian of a child attending a home school.

6906 (b) The exemptions in this section apply regardless of whether:

6907 (i) a parent or legal guardian provides education instruction to the parent's or legal
6908 guardian's child alone or in cooperation with other parents or legal guardians
6909 similarly exempted under this section; or

6910 (ii) the parent or legal guardian makes payment for educational services the parent's
6911 or legal guardian's child receives.

6912 Section 102. Section **53G-8-201** is amended to read:

6913 **53G-8-201 . Definitions.**

6914 As used in this part:

6915 (1) "Sexual crime" or "sexual misconduct" means any conduct described in:

6916 (a) Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417 or
6917 76-5-420;

6918 (b) Title 76, Chapter 5b, Sexual Exploitation Act; and

6919 (c) Section 76-7-102, incest[;] .

6920 [~~(d) Section 76-9-702, lewdness; and]~~

6921 [~~(e) Section 76-9-702.1, sexual battery.]~~

6922 (2) "Serious offense" means the same as that term is defined in Section 80-6-103.

6923 Section 103. Section **53G-8-205** is amended to read:

6924 **53G-8-205 . Grounds for suspension or expulsion from a public school.**

6925 (1) A student may be suspended or expelled from a public school for the following reasons:

6926 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive
6927 behavior, including the use of foul, profane, vulgar, or abusive language;

6928 (b) willful destruction or defacing of school property;

6929 (c) behavior or threatened behavior which poses an immediate and significant threat to
6930 the welfare, safety, or morals of other students or school personnel or to the operation

- 6931 of the school;
- 6932 (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;
- 6933 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the
- 6934 school or school property, to a person associated with the school, or property
- 6935 associated with that person, regardless of where it occurs; or
- 6936 (f) possession or use of pornographic material on school property.

6937 (2)(a) A student shall be suspended or expelled from a public school for the following
6938 reasons:

- 6939 (i) a serious violation affecting another student or a staff member, or a serious
- 6940 violation occurring in a school building, in or on school property, or in
- 6941 conjunction with a school activity, including:
 - 6942 (A) the possession, control, or actual or threatened use of a real weapon,
 - 6943 explosive, or noxious or flammable material;
 - 6944 (B) the actual use of violence or sexual misconduct;
 - 6945 (C) the actual or threatened use of a look alike weapon with intent to intimidate
 - 6946 another person or to disrupt normal school activities; or
 - 6947 (D) the sale, control, or distribution of a drug or controlled substance as defined in
 - 6948 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2,
 - 6949 or drug paraphernalia as defined in Section 58-37a-3;
- 6950 (ii) the commission of an act involving the use of force or the threatened use of force
- 6951 which if committed by an adult would be a felony or class A misdemeanor; or
- 6952 (iii) making a false report of an emergency at a school under Subsection [
6953 ~~76-9-202(2)(d)~~ 76-9-105.5(2)(b).

6954 (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike
6955 weapon, explosive, or flammable material shall be expelled from school for a period
6956 of not less than one year subject to the following:

- 6957 (i) within 45 days after the expulsion the student shall appear before the student's
- 6958 superintendent, the superintendent's designee, chief administrative officer of a
- 6959 charter school, or the chief administrative officer's designee, accompanied by a
- 6960 parent; and
- 6961 (ii) the superintendent, chief administrator, or designee shall determine:

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- 6962 (A) what conditions must be met by the student and the student's parent for the
6963 student to return to school, including any provided for in the policies described
6964 in Section 53G-8-203;
- 6965 (B) if the student should be placed on probation in a regular or alternative school
6966 setting consistent with Section 53G-8-208, and what conditions must be met by
6967 the student in order to ensure the safety of students and faculty at the school the
6968 student is placed in; and
- 6969 (C) if it would be in the best interest of both the LEA, and the student, to modify
6970 the expulsion term to less than a year, conditioned on approval by the local
6971 governing board and giving highest priority to providing a safe school
6972 environment for all students.
- 6973 (3) A student may be denied admission to a public school on the basis of having been
6974 expelled from that or any other school during the preceding 12 months.
- 6975 (4) A suspension or expulsion under this section is not subject to the age limitations under
6976 Subsection 53G-6-204(1).
- 6977 (5) A local governing board shall prepare an annual report for the state board on:
6978 (a) each violation committed under this section; and
6979 (b) each action taken by the LEA against a student who committed the violation.
6980 Section 104. Section **53G-8-209** is amended to read:
- 6981 **53G-8-209 . Extracurricular activities -- Prohibited conduct -- Reporting of**
6982 **violations -- Limitation of liability.**
- 6983 (1) The Legislature recognizes that:
6984 (a) participation in student government and extracurricular activities may confer
6985 important educational and lifetime benefits upon students, and encourages school
6986 districts and charter schools to provide a variety of opportunities for all students to
6987 participate in such activities in meaningful ways;
- 6988 (b) there is no constitutional right to participate in these types of activities, and does not
6989 through this section or any other provision of law create such a right;
- 6990 (c) students who participate in student government and extracurricular activities,
6991 particularly competitive athletics, and the adult coaches, advisors, and assistants who
6992 direct those activities, become role models for others in the school and community;

- 6993 (d) these individuals often play major roles in establishing standards of acceptable
6994 behavior in the school and community, and establishing and maintaining the
6995 reputation of the school and the level of community confidence and support afforded
6996 the school; and
- 6997 (e) it is of the utmost importance that those involved in student government, whether as
6998 officers or advisors, and those involved in competitive athletics and related activities,
6999 whether students or staff, comply with all applicable laws and standards of behavior
7000 and conduct themselves at all times in a manner befitting their positions and
7001 responsibilities.
- 7002 (2)(a) The state board may, and local school boards and charter school governing
7003 boards shall, adopt rules or policies implementing this section that apply to both
7004 students and staff.
- 7005 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions against
7006 the following types of conduct in accordance with Section 53G-8-211, while in the
7007 classroom, on school property, during school sponsored activities, or regardless of
7008 the location or circumstance, affecting a person or property described in Subsections
7009 53G-8-203(1)(e)(i) through (iv):
- 7010 (i) the use of foul, abusive, or profane language while engaged in school related
7011 activities;
- 7012 (ii) the illicit use, possession, or distribution of:
- 7013 (A) a controlled substance or drug paraphernalia;
- 7014 (B) a tobacco product, an electronic cigarette product, or a nicotine product as
7015 those terms are defined in Section ~~[76-10-101]~~ 76-9-1101; or
- 7016 (C) an alcoholic beverage; and
- 7017 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
7018 behavior involving physical violence, restraint, improper touching, or
7019 inappropriate exposure of body parts not normally exposed in public settings,
7020 forced ingestion of any substance, or any act which would constitute a crime
7021 against a person or public order under state law.
- 7022 (3)(a) School employees who reasonably believe that a violation of this section may
7023 have occurred shall immediately report that belief to the school principal, district

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- 7024 superintendent, or chief administrative officer of a charter school.
- 7025 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
7026 alleged incident, and actions taken in response, to the district superintendent or the
7027 superintendent's designee within 10 working days after receipt of the report.
- 7028 (c) Failure of a person holding a professional certificate to report as required under this
7029 Subsection (3) constitutes an unprofessional practice.
- 7030 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.
- 7031 Section 105. Section **53G-8-211** is amended to read:
- 7032 **53G-8-211 . Responses to school-based behavior.**
- 7033 (1) As used in this section:
- 7034 (a) "Evidence-based" means a program or practice that:
- 7035 (i) has had multiple randomized control studies or a meta-analysis demonstrating that
7036 the program or practice is effective for a specific population;
- 7037 (ii) has been rated as effective by a standardized program evaluation tool; or
- 7038 (iii) is created and developed by a school or school district and has been approved by
7039 the state board.
- 7040 (b) "Habitual truant" means a school-age child who:
- 7041 (i) is in grade 7 or above, unless the school-age child is under 12 years old;
- 7042 (ii) is subject to the requirements of Section 53G-6-202; and
- 7043 (iii)(A) is truant at least 20 days during one school year; or
- 7044 (B) fails to cooperate with efforts on the part of school authorities to resolve the
7045 school-age child's attendance problem as required under Section 53G-6-206.
- 7046 (c) "Minor" means the same as that term is defined in Section 80-1-102.
- 7047 (i) "Mobile crisis outreach team" means the same as that term is defined in Section
7048 26B-5-101.
- 7049 (d) "Prosecuting attorney" means the same as that term is defined in Subsections
7050 80-1-102(65)(b) and (c).
- 7051 (e) "Restorative justice program" means a school-based program or a program used or
7052 adopted by a local education agency that is designed:
- 7053 (i) to enhance school safety, reduce school suspensions, and limit referrals to law
7054 enforcement agencies and courts; and

- 7055 (ii) to help minors take responsibility for and repair harmful behavior that occurs in
7056 school.
- 7057 (f) "School administrator" means a principal of a school.
- 7058 (g) "School is in session" means a day during which the school conducts instruction for
7059 which student attendance is counted toward calculating average daily membership.
- 7060 (h) "School resource officer" means a law enforcement officer, as defined in Section
7061 53-13-103, who contracts with, is employed by, or whose law enforcement agency
7062 contracts with a local education agency to provide law enforcement services for the
7063 local education agency.
- 7064 (i) "School-age child" means the same as that term is defined in Section 53G-6-201.
- 7065 (j)(i) "School-sponsored activity" means an activity, fundraising event, club, camp,
7066 clinic, or other event or activity that is authorized by a specific local education
7067 agency or public school, according to LEA governing board policy, and satisfies
7068 at least one of the following conditions:
- 7069 (A) the activity is managed or supervised by a local education agency or public
7070 school, or local education agency or public school employee;
- 7071 (B) the activity uses the local education agency's or public school's facilities,
7072 equipment, or other school resources; or
- 7073 (C) the activity is supported or subsidized, more than inconsequentially, by public
7074 funds, including the public school's activity funds or Minimum School
7075 Program dollars.
- 7076 (ii) "School-sponsored activity" includes preparation for and involvement in a public
7077 performance, contest, athletic competition, demonstration, display, or club activity.
- 7078 (k)(i) "Status offense" means an offense that would not be an offense but for the age
7079 of the offender.
- 7080 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or
7081 felony.
- 7082 (2) This section applies to:
- 7083 (a) a minor who is alleged to be a habitual truant; and
- 7084 (b) a minor enrolled in school who is alleged to have committed an offense on school
7085 property where the student is enrolled:

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- 7086 (i) when school is in session; or
7087 (ii) during a school-sponsored activity.
- 7088 (3) If a minor is alleged to have committed an offense on school property that is a class C
7089 misdemeanor, an infraction, or a status offense, or a minor is alleged to be a habitual
7090 truant, the school administrator, the school administrator's designee, or a school resource
7091 officer shall refer the minor:
- 7092 (a) to an evidence-based alternative intervention, including:
- 7093 (i) a mobile crisis outreach team;
7094 (ii) a youth services center, as defined in Section 80-5-102;
7095 (iii) a certified youth court, as defined in Section 80-6-901, or comparable restorative
7096 justice program;
7097 (iv) an evidence-based alternative intervention created and developed by the school
7098 or school district;
7099 (v) an evidence-based alternative intervention that is jointly created and developed by
7100 a local education agency, the state board, the juvenile court, local counties and
7101 municipalities, the Department of Health and Human Services;
7102 (vi) a tobacco cessation or education program if the offense is a violation of Section [
7103 ~~76-10-105~~] 76-9-1106; or
7104 (vii) truancy mediation; or
- 7105 (b) for prevention and early intervention youth services, as described in Section 80-5-201,
7106 by the Division of Juvenile Justice and Youth Services if the minor refuses to
7107 participate in an evidence-based alternative intervention described in Subsection
7108 (3)(a).
- 7109 (4) Except as provided in Subsection (6), if a minor is alleged to have committed an offense
7110 on school property that is a class C misdemeanor, an infraction, or a status offense, a
7111 school administrator, the school administrator's designee, or a school resource officer
7112 may refer a minor to a law enforcement officer or agency or a court only if:
- 7113 (a) the minor allegedly committed an offense on school property on a previous occasion;
7114 and
7115 (b) the minor was referred to an evidence-based alternative intervention, or to prevention
7116 or early intervention youth services, as described in Subsection (3) for the previous

- 7117 offense.
- 7118 (5) If a minor is alleged to be a habitual truant, a school administrator, the school
7119 administrator's designee, or a school resource officer may only refer the minor to a law
7120 enforcement officer or agency or a court if:
- 7121 (a) the minor was previously alleged of being a habitual truant at least twice during the
7122 same school year; and
- 7123 (b) the minor was referred to an evidence-based alternative intervention, or for
7124 prevention and early intervention youth services, as described in Subsection (3) for at
7125 least two of the previous habitual trancies.
- 7126 (6) If a minor is alleged to have committed a traffic offense that is an infraction, a school
7127 administrator, the school administrator's designee, or a school resource officer may refer
7128 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for
7129 the traffic offense.
- 7130 (7) Notwithstanding Subsections (4) and (5), a school resource officer may:
- 7131 (a) investigate possible criminal offenses and conduct, including conducting probable
7132 cause searches;
- 7133 (b) consult with school administration about the conduct of a minor enrolled in a school;
- 7134 (c) transport a minor enrolled in a school to a location if the location is permitted by law;
- 7135 (d) take temporary custody of a minor in accordance with Section 80-6-201; or
- 7136 (e) protect the safety of students and the school community, including the use of
7137 reasonable and necessary physical force when appropriate based on the totality of the
7138 circumstances.
- 7139 (8)(a) If a minor is referred to a court or a law enforcement officer or agency under
7140 Subsection (4) or (5), the school or the school district shall appoint a school
7141 representative to continue to engage with the minor and the minor's family through
7142 the court process.
- 7143 (b) A school representative appointed under Subsection (8)(a) may not be a school
7144 resource officer.
- 7145 (c) A school district or school shall include the following in the school district's or
7146 school's referral to the court or the law enforcement officer or agency:
- 7147 (i) attendance records for the minor;

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- 7148 (ii) a report of evidence-based alternative interventions used by the school before the
7149 referral, including outcomes;
- 7150 (iii) the name and contact information of the school representative assigned to
7151 actively participate in the court process with the minor and the minor's family;
- 7152 (iv) if the minor was referred to prevention or early intervention youth services under
7153 Subsection (3)(b), a report from the Division of Juvenile Justice and Youth
7154 Services that demonstrates the minor's failure to complete or participate in
7155 prevention and early intervention youth services under Subsection (3)(b); and
7156 (v) any other information that the school district or school considers relevant.
- 7157 (d) A minor referred to a court under Subsection (4) or (5) may not be ordered to or
7158 placed in secure detention, including for a contempt charge or violation of a valid
7159 court order under Section 78A-6-353:
- 7160 (i) when the underlying offense is a status offense or infraction; or
7161 (ii) for being a habitual truant.
- 7162 (e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when
7163 available, the resources of the Division of Juvenile Justice and Youth Services or the
7164 Office of Substance Use and Mental Health to address the minor.
- 7165 (9) If a minor is alleged to have committed an offense on school property that is a class B
7166 misdemeanor or a class A misdemeanor, the school administrator, the school
7167 administrator's designee, or a school resource officer may refer the minor directly to a
7168 court or to the evidence-based alternative interventions in Subsection (3)(a).
- 7169 (10) A school administrator, a school administrator's designee, and a school resource officer
7170 retain the discretion described under this section in relation to Title 63G, Chapter 31,
7171 Distinctions on the Basis of Sex.
- 7172 Section 106. Section **53G-8-701.8** is amended to read:
- 7173 **53G-8-701.8 . School safety and security director.**
- 7174 (1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school
7175 safety and security director as the LEA point of contact for the county security chief,
7176 local law enforcement, and the state security chief.
- 7177 (2) A school safety and security director shall:
- 7178 (a) participate in and satisfy the training requirements, including the annual and biannual

- 7179 requirements, described in:
- 7180 (i) Section 53-22-105 for school guardians;
- 7181 (ii) Section 53G-8-702 for school resource officers; and
- 7182 (iii) Section 53G-8-704 for armed school security guards;
- 7183 (b) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7,
- 7184 Concealed Firearm Act;
- 7185 (c) if the designee is an employee of an LEA, participate on the multidisciplinary team
- 7186 the LEA establishes;
- 7187 (d) coordinate security responses among, if applicable, the following individuals in the
- 7188 LEA that employs the school safety and security director:
- 7189 (i) school safety and security specialists;
- 7190 (ii) school resource officers;
- 7191 (iii) armed school security guards; and
- 7192 (iv) school guardians; and
- 7193 (e) collaborate and maintain effective communications with local law enforcement, a
- 7194 county security chief, the LEA, and school-based behavioral and mental health
- 7195 professionals to ensure adherence with all policies, procedures, protocols, rules, and
- 7196 regulations relating to school safety and security.
- 7197 (3) A school safety and security director:
- 7198 (a) does not have authority to act in a law enforcement capacity; and
- 7199 (b) may, at the LEA that employs the director:
- 7200 (i) take actions necessary to prevent or abate an active threat;
- 7201 (ii) temporarily detain an individual when the school safety and security director has
- 7202 reasonable cause to believe the individual has committed or is about to commit a
- 7203 forcible felony, as that term is defined in Section 76-2-402;
- 7204 (4) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-204(4), if a school safety and
- 7205 security director is carrying a firearm, the school safety and security director shall carry
- 7206 the school safety and security director's firearm in a concealed manner and may not,
- 7207 unless during an active threat, display or open carry a firearm while on school grounds.
- 7208 (5) A school may use the services of the school safety and security director on a temporary
- 7209 basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

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- 7210 (6) The state security chief shall:
- 7211 (a) for each school safety and security director, track each school safety and security
- 7212 director by collecting the photograph and the name and contact information for each
- 7213 school safety and security director; and
- 7214 (b) make the information described in Subsection (6)(a) readily available to each law
- 7215 enforcement agency in the state categorized by LEA.
- 7216 Section 107. Section **53G-10-103** is amended to read:
- 7217 **53G-10-103 . Sensitive instructional materials.**
- 7218 (1) As used in this section:
- 7219 (a)(i) "Instructional material" means a material, regardless of format, used:
- 7220 (A) as or in place of textbooks to deliver curriculum within the state curriculum
- 7221 framework for courses of study by students; or
- 7222 (B) to support a student's learning in any school setting.
- 7223 (ii) "Instructional material" includes reading materials, handouts, videos, digital
- 7224 materials, websites, online applications, and live presentations.
- 7225 (iii) "Instructional material" does not mean exclusively library materials.
- 7226 (b) "LEA governing board" means:
- 7227 (i) for a school district, the local school board;
- 7228 (ii) for a charter school, the charter school governing board; or
- 7229 (iii) for the Utah Schools for the Deaf and the Blind, the state board.
- 7230 (c) "Material" means the same as that term is defined in Section ~~[76-10-1201]~~ 76-5c-101.
- 7231 (d) "Minor" means any person less than 18 years old.
- 7232 (e) "Objective sensitive material" means an instructional material that constitutes
- 7233 pornographic or indecent material, as that term is defined in Section ~~[76-10-1235]~~
- 7234 76-5c-208, under the non-discretionary standards described in ~~[Subsection~~
- 7235 ~~76-10-1227(1)(a)(i), (ii), or (iii)]~~ Subsections 76-5c-207(1)(a)(i)(A), (B), or (C).
- 7236 (f) "Public school" means:
- 7237 (i) a district school;
- 7238 (ii) a charter school; or
- 7239 (iii) the Utah Schools for the Deaf and the Blind.
- 7240 (g)(i) "School setting" means, for a public school:

- 7241 (A) in a classroom;
- 7242 (B) in a school library; or
- 7243 (C) on school property.
- 7244 (ii) "School setting" includes the following activities that an organization or
- 7245 individual or organization outside of a public school conducts, if a public school
- 7246 or an LEA sponsors or requires the activity:
- 7247 (A) an assembly;
- 7248 (B) a guest lecture;
- 7249 (C) a live presentation; or
- 7250 (D) an event.
- 7251 (h)(i) "Sensitive material" means an instructional material that constitutes objective
- 7252 sensitive material or subjective sensitive material.
- 7253 (ii) "Sensitive material" does not include an instructional material:
- 7254 (A) that an LEA selects under Section 53G-10-402;
- 7255 (B) for a concurrent enrollment course that contains sensitive material and for
- 7256 which a parent receives notice from the course provider of the material before
- 7257 enrollment of the parent's child and gives the parent's consent by enrolling the
- 7258 parent's child;
- 7259 (C) for medical courses;
- 7260 (D) for family and consumer science courses; or
- 7261 (E) for another course the state board exempts in state board rule.
- 7262 (iii) "Subjective sensitive material" means an instructional material that constitutes
- 7263 pornographic or indecent material, as that term is defined in Section [76-10-1235]
- 7264 76-5c-208, under the following factor-balancing standards:
- 7265 (A) material that is harmful to minors under Section [76-10-1204] 76-5c-101;
- 7266 (B) material that is pornographic under Section [76-10-1203] 76-5c-101; or
- 7267 (C) material that includes certain fondling or other erotic touching under
- 7268 Subsection [76-10-1227(1)(a)(iv)] 76-5c-207(1)(a)(i)(D).
- 7269 (2)(a) Sensitive materials are prohibited in the school setting.
- 7270 (b) A public school or an LEA may not:
- 7271 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting,

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- 7272 sensitive materials; or
- 7273 (ii) permit a speaker or presenter in the school setting to display or distribute
- 7274 sensitive materials.
- 7275 (c) In evaluating, selecting, or otherwise considering action related to a given
- 7276 instructional material under this section, each public school and each LEA shall
- 7277 prioritize protecting children from the harmful effects of illicit pornography over
- 7278 other considerations in evaluating instructional material.
- 7279 (d) If an instructional material constitutes objective sensitive material:
- 7280 (i) a public school or an LEA is not required to engage in a review under a subjective
- 7281 sensitive material standard; and
- 7282 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the
- 7283 non-discretionary objective sensitive material conclusion.
- 7284 (3)(a) Except as provided in Subsection (3)(b), the following individuals may initiate a
- 7285 sensitive material review under this section:
- 7286 (i) an employee of the relevant LEA;
- 7287 (ii) a student who is enrolled in the relevant LEA;
- 7288 (iii) a parent of a child who is enrolled in the relevant LEA; or
- 7289 (iv) a member of the relevant LEA governing board.
- 7290 (b)(i) As used in this Subsection (3)(b), "unsuccessful challenge" means an
- 7291 allegation that a given instructional material constitutes sensitive material that the
- 7292 LEA concludes to be erroneous, either on direct review or on appeal to the LEA
- 7293 governing board, resulting in the retention of the given instructional material.
- 7294 (ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful
- 7295 challenges during a given academic year, the individual may not trigger a
- 7296 sensitive material review under this section during the remainder of the given
- 7297 academic year.
- 7298 (4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA
- 7299 shall:
- 7300 (a)(i) make an initial determination as to whether the allegation presents a plausible
- 7301 claim that the challenged instructional material constitutes sensitive material,
- 7302 including whether the allegation includes excerpts and other evidence to support

- 7303 the allegation; and
- 7304 (ii) if the LEA determines that the allegation presents a plausible claim that the
- 7305 challenged instructional material constitutes sensitive material under Subsection
- 7306 (4)(a)(i), immediately remove the challenged material from any school setting that
- 7307 provides student access to the challenged material until the LEA completes the
- 7308 LEA's full review of the challenged material under this section;
- 7309 (b)(i) engage in a review of the allegations and the challenged instructional material
- 7310 using the objective sensitive material standards; and
- 7311 (ii) if the LEA makes a determination that the challenged instructional material
- 7312 constitutes objective sensitive material, ensure that the material remains
- 7313 inaccessible to students in any school setting;
- 7314 (c) only if the LEA makes a determination that the challenged instructional material
- 7315 does not constitute objective sensitive material:
- 7316 (i) review the allegations and the challenged instructional material under the
- 7317 subjective material standards, ensuring that the review includes parents who are
- 7318 reflective of the members of the school's community when determining if an
- 7319 instructional material is subjective sensitive material;
- 7320 (ii) allow student access to the challenged instructional material during the LEA's
- 7321 subjective sensitive material review if the student's parent gives consent regarding
- 7322 the specific challenged instructional material; and
- 7323 (iii) if the LEA makes a determination that the challenged instructional material
- 7324 constitutes subjective sensitive material, ensure that the material is inaccessible to
- 7325 students in any school setting, including the termination of the parent consent
- 7326 option described in Subsection (4)(c)(ii); and
- 7327 (d) communicate to the state board the allegation and the LEA's final determination
- 7328 regarding the allegation and the challenged instructional material.
- 7329 (5)(a) An individual described in Subsection (3)(a) may appeal an LEA's decision
- 7330 regarding a sensitive material review, regardless of whether the LEA removed or
- 7331 retained the challenged instructional material, to the LEA governing board.
- 7332 (b) An LEA governing board shall vote in a public board meeting to decide the outcome
- 7333 of a sensitive material review appeal, clearly identifying:

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- 7334 (i) the board's rationale for the decision; and
7335 (ii) the board's determination on each component of the statutory and any additional
7336 policy standards the board uses to reach the board's conclusions.
- 7337 (6) An LEA governing board may not enact rules or policies that prevent the LEA
7338 governing board from:
- 7339 (a) revisiting a previous decision;
7340 (b) reviewing a recommendation of LEA personnel or a parent-related committee
7341 regarding a challenged instructional material; or
7342 (c) reconsidering a challenged instructional material if the LEA governing board
7343 receives additional information regarding the material.
- 7344 (7)(a) Except as provided in Subsection (7)(d), if the threshold described in Subsection
7345 (7)(b) is met, each LEA statewide shall remove the relevant instructional material
7346 from student access.
- 7347 (b) The requirement described in Subsection (7)(a) to remove a given material from
7348 student access applies if the following number of LEAs makes a determination that a
7349 given instructional material constitutes objective sensitive material:
- 7350 (i) at least three school districts; or
7351 (ii) at least two school districts and five charter schools.
- 7352 (c) The state board shall:
- 7353 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
7354 (ii) no later than 10 school days after the day on which the condition described in
7355 Subsection (7)(b) occurs, communicate to all LEAs the application of the
7356 requirement described in Subsection (7)(a) to remove the material from student
7357 access.
- 7358 (d)(i) When the threshold described in Subsection (7)(b) is met for a given
7359 instructional material, in addition to making the communication described in
7360 Subsection (7)(c), the state board may:
- 7361 (A) place the material on the agenda of a public board meeting within 60 days
7362 after the day on which the state board makes the communication to LEAs
7363 under Subsection (7)(c); and
7364 (B) at the specified state board meeting, vote to overturn the application of the

- 7365 requirement described in Subsection (7)(a) to remove a given material from
7366 student access statewide.
- 7367 (ii) If the state board votes to overturn the application of the statewide removal
7368 requirement described in Subsection (7)(a) under Subsection (7)(d)(i):
7369 (A) the statewide removal requirement described in Subsection (7)(a) no longer
7370 applies;
7371 (B) an LEA may choose to return the given material to student access; and
7372 (C) nothing affects the findings of an LEA governing board regarding removal of
7373 the given material within the board's LEA.
- 7374 (e) This Subsection (7) applies to sensitive materials that LEAs remove from student
7375 access, regardless of whether:
7376 (i) the sensitive material determinations occur in the same academic year; or
7377 (ii) a sensitive material determination occurred before July 1, 2024.
- 7378 (8) The state board shall:
7379 (a) in consultation with the Office of the Attorney General, provide guidance and
7380 training to support public schools in identifying instructional materials that meet the
7381 definition of sensitive materials under this section;
7382 (b) establish a process through which an individual described in Subsection (3)(a) may
7383 report to the state board an allegation that an LEA is out of compliance with this
7384 section; and
7385 (c) annually report to the Education Interim Committee, at or before the November
7386 interim meeting, on implementation and compliance with this section, including:
7387 (i) any policy the state board or an LEA adopts to implement or comply with this
7388 section;
7389 (ii) any rule the state board makes to implement or comply with this section; and
7390 (iii) any complaints an LEA or the state board receives regarding a violation of this
7391 section, including:
7392 (A) action taken in response to a complaint described in this Subsection (8)(c)(iii);
7393 (B) if an LEA retains an instructional material for which the LEA or the state
7394 board receives a complaint, the LEA's rationale for retaining the instructional
7395 material; and

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- 7396 (C) compliance failures that the state board identifies through the reporting
7397 process described in Subsection (8)(b) and other investigations or research.
- 7398 (9) The state shall defend, indemnify, and hold harmless a person acting under color of state
7399 law to enforce this section for any claims or damages, including court costs and attorney
7400 fees, that:
- 7401 (a) a person brings or incurs as a result of this section; and
7402 (b) is not covered by the person's insurance policies or any coverage agreement that the
7403 State Risk Management Fund issues.
- 7404 (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the
7405 Office of the Legislative Auditor General shall:
- 7406 (a) conduct an audit of each school district's compliance with this section, ensuring the
7407 completion of all school district audits before November 2028; and
7408 (b) annually report to the Education Interim Committee regarding completed sensitive
7409 material audits under this Subsection (10).
- 7410 Section 108. Section **57-22-5.1** is amended to read:
- 7411 **57-22-5.1 . Crime victim's right to new locks -- Domestic violence victim's right**
7412 **to terminate rental agreement -- Limits an owner relating to assistance from**
7413 **public safety agency.**
- 7414 (1) As used in this section:
- 7415 (a)(i) "Court order" means, except as provided in Subsection (1)(a)(ii):
7416 (A) a civil protective order, as defined in Section 78B-7-102;
7417 (B) a civil stalking injunction, as defined in Section 78B-7-102;
7418 (C) a criminal protective order, as defined in Section 78B-7-102; or
7419 (D) a criminal stalking injunction, as defined in Section 78B-7-102.
- 7420 (ii) "Court order" does not include:
7421 (A) an ex parte civil protective order, as defined in Section 78B-7-102; or
7422 (B) an ex parte civil stalking injunction, as defined in Section 78B-7-102, for
7423 which a hearing is requested.
- 7424 (b) "Crime victim" means a victim of:
7425 (i) domestic violence, as defined in Section 77-36-1;
7426 (ii) stalking, as defined in Section 76-5-106.5;

- 7427 (iii) [~~a crime~~] an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, not
7428 including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;
- 7429 (iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or
7430 (v) dating violence, as defined in Section 78B-7-102.
- 7431 (c) "Domestic violence" means the same as that term is defined in Section 77-36-1.
7432 (d) "Financial obligation" means any rent, fees, damages, or other costs owed by a renter.
7433 (e)(i) "Future obligations" means a renter's obligations under the rental agreement
7434 after the date on which the renter vacates the residential rental unit in accordance
7435 with Subsection (6).
7436 (ii) "Future obligations" includes:
7437 (A) the payment of rent and fees for the residential rental unit; and
7438 (B) the right to occupy the residential rental unit.
- 7439 (f) "Public safety agency" means a governmental entity that provides fire protection, law
7440 enforcement, ambulance, medical, or similar service.
7441 (g) "Victim of domestic violence" means the same as the term "victim" in Section
7442 77-36-1.
7443 (h) "Termination fee" means the equivalent of one month of rent under the rental
7444 agreement.
- 7445 (2) An acceptable form of documentation of an act listed in Subsection (1) is:
7446 (a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part
7447 6, Cohabitant Abuse Protective Orders, subsequent to a hearing of which the
7448 petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 6,
7449 Cohabitant Abuse Protective Orders; or
7450 (b) a copy of a police report documenting an act listed in Subsection (1).
- 7451 (3)(a) A renter who is a crime victim may require the renter's owner to install a new
7452 lock to the renter's residential rental unit if the renter:
7453 (i) provides the owner with an acceptable form of documentation of an act listed in
7454 Subsection (1); and
7455 (ii) pays for the cost of installing the new lock.
7456 (b) An owner may comply with Subsection (3)(a) by:
7457 (i) rekeying the lock if the lock is in good working condition; or

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- 7458 (ii) changing the entire locking mechanism with a locking mechanism of equal or
7459 greater quality than the lock being replaced.
- 7460 (c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the
7461 key that opens the new lock.
- 7462 (d) Notwithstanding any rental agreement, an owner who installs a new lock under
7463 Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to
7464 the perpetrator of the act listed in Subsection (1).
- 7465 (e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key
7466 under Subsection (3)(d) to a perpetrator who is not barred from the residential rental
7467 unit by a protective order but is a renter on the rental agreement, the perpetrator may
7468 file a petition with a court of competent jurisdiction within 30 days to:
- 7469 (i) establish whether the perpetrator should be given a key and allowed access to the
7470 residential rental unit; or
- 7471 (ii) whether the perpetrator should be relieved of further liability under the rental
7472 agreement because of the owner's exclusion of the perpetrator from the residential
7473 rental unit.
- 7474 (f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further
7475 liability under the rental agreement if the perpetrator is found by the court to have
7476 committed the act upon which the landlord's exclusion of the perpetrator is based.
- 7477 (4) A renter who is a victim of domestic violence may terminate all of the renter's future
7478 obligations under a rental agreement if the renter:
- 7479 (a) except as provided in Subsection (5), is in compliance with all obligations under the
7480 rental agreement, including the requirements of Section 57-22-5;
- 7481 (b) provides the owner with:
- 7482 (i) a court order protecting the renter from a domestic violence perpetrator; or
7483 (ii) a copy of a police report documenting that the renter is a victim of domestic
7484 violence and is not the predominant aggressor under Subsection 77-36-2.2(3);
- 7485 (c) provides the owner with a written notice of termination that includes the date on
7486 which the renter intends to vacate the renter's residential rental unit; and
- 7487 (d) pays the owner a termination fee on the later of the day on which:
- 7488 (i) the renter provides the owner with a written notice of termination; or

- 7489 (ii) the renter vacates the renter's residential rental unit.
- 7490 (5) A renter may terminate all of the renter's future obligations under a rental agreement
7491 under Subsection (4) when the renter is not in compliance with the requirements of
7492 Subsection 57-22-5(1)(g) or (2) if:
- 7493 (a) the renter provides evidence to the owner with the written notice of termination
7494 under Subsection (4)(c) establishing that:
- 7495 (i) the noncompliance with Subsection 57-22-5(1)(g) or (2) occurred less than 30
7496 days before the day on which the renter provided the written notice of termination
7497 to the owner; and
- 7498 (ii) the noncompliance with Subsection 57-22-5(1)(g) or (2) is due to domestic
7499 violence;
- 7500 (b) the renter is in compliance with all obligations of the rental agreement, except for the
7501 noncompliance described in Subsection (5)(a); and
- 7502 (c) the renter complies with Subsections (4)(b), (c), and (d).
- 7503 (6) If a renter provides an owner with a written notice of termination under Subsection
7504 (4)(c), the renter shall:
- 7505 (a) vacate the renter's residential rental unit within 15 days after the day on which the
7506 written notice of termination is provided to the owner; and
- 7507 (b) pay rent for any occupation of the residential rental unit during that 15-day time
7508 period.
- 7509 (7) A renter may not terminate all of the renter's future obligations under a rental agreement
7510 under Subsection (4) after a notice of eviction is served on the renter.
- 7511 (8) A renter who terminates all of the renter's future obligations under a rental agreement
7512 under Subsection (4) is liable for any financial obligation owed by the renter:
- 7513 (a) before the renter provided the owner with the written notice of termination under
7514 Subsection (4)(c);
- 7515 (b) for any noncompliance with Subsection 57-22-5(1)(g) or (2) as described in
7516 Subsection (5); and
- 7517 (c) for any occupancy of the residential rental unit by the renter during the 15-day time
7518 period described in Subsection (6).
- 7519 (9) The termination of a renter's future obligations under a rental agreement does not

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7520 terminate the rental agreement for any other person entitled under the rental agreement
7521 to occupy the residential rental unit.

7522 (10) An owner may not:

7523 (a) impose a restriction on a renter's ability to request assistance from a public safety
7524 agency; or

7525 (b) penalize or evict a renter because the renter makes reasonable requests for assistance
7526 from a public safety agency.

7527 Section 109. Section **58-37-8** is amended to read:

7528 **58-37-8 . Prohibited acts -- Penalties.**

7529 (1) Prohibited acts A -- Penalties and reporting:

7530 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
7531 intentionally:

7532 (i) produce, manufacture, or dispense, or to possess with intent to produce,
7533 manufacture, or dispense, a controlled or counterfeit substance;

7534 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
7535 arrange to distribute a controlled or counterfeit substance;

7536 (iii) possess a controlled or counterfeit substance with intent to distribute; or

7537 (iv) engage in a continuing criminal enterprise where:

7538 (A) the person participates, directs, or engages in conduct that results in a
7539 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter
7540 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled
7541 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a
7542 felony; and

7543 (B) the violation is a part of a continuing series of two or more violations of this
7544 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation
7545 Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor
7546 Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are
7547 undertaken in concert with five or more persons with respect to whom the
7548 person occupies a position of organizer, supervisor, or any other position of
7549 management.

7550 (b) A person convicted of violating Subsection (1)(a) with respect to:

- 7551 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a
7552 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule
7553 III is guilty of a second degree felony, punishable by imprisonment for not more
7554 than 15 years, and upon a second or subsequent conviction is guilty of a first
7555 degree felony;
- 7556 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
7557 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree
7558 felony, and upon a second or subsequent conviction is guilty of a second degree
7559 felony; or
- 7560 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
7561 class A misdemeanor and upon a second or subsequent conviction is guilty of a
7562 third degree felony.
- 7563 (c)(i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted
7564 of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment
7565 for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter
7566 3, Punishments.
- 7567 (ii) The court shall impose an indeterminate prison term for a person who has been
7568 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony
7569 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,
7570 during the commission or furtherance of the violation, the person intentionally or
7571 knowingly:
- 7572 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in
7573 Section ~~[76-10-501]~~ 76-11-101, that is not a firearm, in an angry, threatening,
7574 intimidating, or coercive manner;
- 7575 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm
7576 readily accessible for immediate use, as ~~[those terms are]~~ that term is defined in
7577 Section ~~[76-10-501]~~ 76-11-201; or
- 7578 (C) distributed a firearm, as that term is defined in Section ~~[76-10-501]~~ 76-11-101,
7579 or possessed a firearm with intent to distribute the firearm.
- 7580 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate
7581 prison term for a person convicted under Subsection (1)(c)(ii) if the court:

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- 7582 (A) details on the record the reasons why it is in the interests of justice not to
7583 impose the indeterminate prison term;
- 7584 (B) makes a finding on the record that the person does not pose a significant
7585 safety risk to the public; and
- 7586 (C) orders the person to complete the terms and conditions of supervised
7587 probation provided by the Department of Corrections.
- 7588 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
7589 felony punishable by imprisonment for an indeterminate term of not less than:
- 7590 (A) seven years and which may be for life; or
- 7591 (B) 15 years and which may be for life if the trier of fact determined that the
7592 defendant knew or reasonably should have known that any subordinate under
7593 Subsection (1)(a)(iv)(B) was under 18 years old.
- 7594 (ii) Imposition or execution of the sentence may not be suspended, and the person is
7595 not eligible for probation.
- 7596 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
7597 offense, was under 18 years old.
- 7598 (e) The Administrative Office of the Courts shall report to the Division of Professional
7599 Licensing the name, case number, date of conviction, and if known, the date of birth
7600 of each person convicted of violating Subsection (1)(a).
- 7601 (2) Prohibited acts B -- Penalties and reporting:
- 7602 (a) It is unlawful:
- 7603 (i) for a person knowingly and intentionally to possess or use a controlled substance
7604 analog or a controlled substance, unless it was obtained under a valid prescription
7605 or order, directly from a practitioner while acting in the course of the person's
7606 professional practice, or as otherwise authorized by this chapter;
- 7607 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
7608 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them
7609 to be occupied by persons unlawfully possessing, using, or distributing controlled
7610 substances in any of those locations; or
- 7611 (iii) for a person knowingly and intentionally to possess an altered or forged
7612 prescription or written order for a controlled substance.

- 7613 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
7614 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree
7615 felony; or
7616 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is
7617 guilty of a class A misdemeanor on a first or second conviction, and on a third or
7618 subsequent conviction if each prior offense was committed within seven years
7619 before the date of the offense upon which the current conviction is based is guilty
7620 of a third degree felony.
- 7621 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
7622 conviction under Subsection (1)(a), that person shall be sentenced to a one degree
7623 greater penalty than provided in this Subsection (2).
- 7624 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
7625 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in
7626 Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
- 7627 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each
7628 prior offense was committed within seven years before the date of the offense
7629 upon which the current conviction is based.
- 7630 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree
7631 felony if each prior offense was committed within seven years before the date of
7632 the offense upon which the current conviction is based.
- 7633 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
7634 boundaries of property occupied by a correctional facility as defined in Section
7635 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty
7636 one degree greater than provided in Subsection (2)(b), and if the conviction is with
7637 respect to controlled substances as listed in:
- 7638 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
7639 indeterminate term as provided by law, and:
- 7640 (A) the court shall additionally sentence the person convicted to a term of one year
7641 to run consecutively and not concurrently; and
- 7642 (B) the court may additionally sentence the person convicted for an indeterminate
7643 term not to exceed five years to run consecutively and not concurrently; and

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- 7644 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
7645 indeterminate term as provided by law, and the court shall additionally sentence
7646 the person convicted to a term of six months to run consecutively and not
7647 concurrently.
- 7648 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
7649 (i) on a first conviction, guilty of a class B misdemeanor;
7650 (ii) on a second conviction, guilty of a class A misdemeanor; and
7651 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 7652 (g) The Administrative Office of the Courts shall report to the Division of Professional
7653 Licensing the name, case number, date of conviction, and if known, the date of birth
7654 of each person convicted of violating Subsection (2)(a).
- 7655 (3) Prohibited acts C -- Penalties:
- 7656 (a) It is unlawful for a person knowingly and intentionally:
7657 (i) to use in the course of the manufacture or distribution of a controlled substance a
7658 license number which is fictitious, revoked, suspended, or issued to another
7659 person or, for the purpose of obtaining a controlled substance, to assume the title
7660 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,
7661 dentist, veterinarian, or other authorized person;
7662 (ii) to acquire or obtain possession of, to procure or attempt to procure the
7663 administration of, to obtain a prescription for, to prescribe or dispense to a person
7664 known to be attempting to acquire or obtain possession of, or to procure the
7665 administration of a controlled substance by misrepresentation or failure by the
7666 person to disclose receiving a controlled substance from another source, fraud,
7667 forgery, deception, subterfuge, alteration of a prescription or written order for a
7668 controlled substance, or the use of a false name or address;
7669 (iii) to make a false or forged prescription or written order for a controlled substance,
7670 or to utter the same, or to alter a prescription or written order issued or written
7671 under the terms of this chapter; or
7672 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed
7673 to print, imprint, or reproduce the trademark, trade name, or other identifying
7674 mark, imprint, or device of another or any likeness of any of the foregoing upon

7675 any drug or container or labeling so as to render a drug a counterfeit controlled
7676 substance.

7677 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
7678 misdemeanor.

7679 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
7680 degree felony.

7681 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

7682 (4) Prohibited acts D -- Penalties:

7683 (a) Notwithstanding other provisions of this section, a person not authorized under this
7684 chapter who commits any act that is unlawful under Subsection (1)(a) or Section
7685 58-37b-4 is upon conviction subject to the penalties and classifications under this
7686 Subsection (4) if the trier of fact finds the act is committed:

7687 (i) in a public or private elementary or secondary school or on the grounds of any of
7688 those schools during the hours of 6 a.m. through 10 p.m.;

7689 (ii) in a public or private vocational school or postsecondary institution or on the
7690 grounds of any of those schools or institutions during the hours of 6 a.m. through
7691 10 p.m.;

7692 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
7693 facility's hours of operation;

7694 (iv) in a public park, amusement park, arcade, or recreation center when the public or
7695 amusement park, arcade, or recreation center is open to the public;

7696 (v) in or on the grounds of a house of worship as defined in Section [76-10-501]
7697 76-11-201;

7698 (vi) in or on the grounds of a library when the library is open to the public;

7699 (vii) within an area that is within 100 feet of any structure, facility, or grounds
7700 included in Subsections (4)(a)(i) through (vi);

7701 (viii) in the presence of a person younger than 18 years old, regardless of where the
7702 act occurs; or

7703 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
7704 distribution of a substance in violation of this section to an inmate or on the
7705 grounds of a correctional facility as defined in Section 76-8-311.3.

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- 7706 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony
7707 and shall be imprisoned for a term of not less than five years if the penalty that
7708 would otherwise have been established but for this Subsection (4) would have
7709 been a first degree felony.
- 7710 (ii) Imposition or execution of the sentence may not be suspended, and the person is
7711 not eligible for probation.
- 7712 (c) If the classification that would otherwise have been established would have been less
7713 than a first degree felony but for this Subsection (4), a person convicted under this
7714 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for
7715 that offense.
- 7716 (d)(i) If the violation is of Subsection (4)(a)(ix):
- 7717 (A) the person may be sentenced to imprisonment for an indeterminate term as
7718 provided by law, and the court shall additionally sentence the person convicted
7719 for a term of one year to run consecutively and not concurrently; and
- 7720 (B) the court may additionally sentence the person convicted for an indeterminate
7721 term not to exceed five years to run consecutively and not concurrently; and
- 7722 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
7723 the mental state required for the commission of an offense, directly or indirectly
7724 solicits, requests, commands, coerces, encourages, or intentionally aids another
7725 person to commit a violation of Subsection (4)(a)(ix).
- 7726 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 7727 (i) the actor mistakenly believed the individual to be 18 years old or older at the time
7728 of the offense or was unaware of the individual's true age; or
- 7729 (ii) the actor mistakenly believed that the location where the act occurred was not as
7730 described in Subsection (4)(a) or was unaware that the location where the act
7731 occurred was as described in Subsection (4)(a).
- 7732 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 7733 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
7734 guilty or no contest to a violation or attempted violation of this section or a plea
7735 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the
7736 equivalent of a conviction, even if the charge has been subsequently reduced or

- 7737 dismissed in accordance with the plea in abeyance agreement.
- 7738 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
7739 conviction that is:
- 7740 (i) from a separate criminal episode than the current charge; and
7741 (ii) from a conviction that is separate from any other conviction used to enhance the
7742 current charge.
- 7743 (7) A person may be charged and sentenced for a violation of this section, notwithstanding
7744 a charge and sentence for a violation of any other section of this chapter.
- 7745 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,
7746 a civil or administrative penalty or sanction authorized by law.
- 7747 (b) When a violation of this chapter violates a federal law or the law of another state,
7748 conviction or acquittal under federal law or the law of another state for the same act
7749 is a bar to prosecution in this state.
- 7750 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person
7751 or persons produced, manufactured, possessed, distributed, or dispensed a controlled
7752 substance or substances, is prima facie evidence that the person or persons did so with
7753 knowledge of the character of the substance or substances.
- 7754 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
7755 veterinarian's professional practice only and not for humans, from prescribing,
7756 dispensing, or administering controlled substances or from causing the substances to be
7757 administered by an assistant or orderly under the veterinarian's direction and supervision.
- 7758 (11) Civil or criminal liability may not be imposed under this section on:
- 7759 (a) a person registered under this chapter who manufactures, distributes, or possesses an
7760 imitation controlled substance for use as a placebo or investigational new drug by a
7761 registered practitioner in the ordinary course of professional practice or research;
- 7762 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
7763 employment;or
- 7764 (c) a healthcare facility, substance use harm reduction services program, or drug
7765 addiction treatment facility that temporarily possesses a controlled or counterfeit
7766 substance to conduct a test or analysis on the controlled or counterfeit substance to
7767 identify or analyze the strength, effectiveness, or purity of the substance for a public

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7768 health or safety reason.

7769 (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,
7770 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
7771 traditional ceremonial purposes in connection with the practice of a traditional Indian
7772 religion as defined in Section 58-37-2.

7773 (b) In a prosecution alleging violation of this section regarding peyote as defined in
7774 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or
7775 transported by an Indian for bona fide traditional ceremonial purposes in connection
7776 with the practice of a traditional Indian religion.

7777 (c)(i) The defendant shall provide written notice of intent to claim an affirmative
7778 defense under this Subsection (12) as soon as practicable, but not later than 10
7779 days before trial.

7780 (ii) The notice shall include the specific claims of the affirmative defense.

7781 (iii) The court may waive the notice requirement in the interest of justice for good
7782 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely
7783 notice.

7784 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a
7785 preponderance of the evidence. If the defense is established, it is a complete defense
7786 to the charges.

7787 (13)(a) It is an affirmative defense that the person produced, possessed, or administered
7788 a controlled substance listed in Section 58-37-4.2 if the person was:

7789 (i) engaged in medical research; and

7790 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

7791 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a
7792 controlled substance listed in Section 58-37-4.2.

7793 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled
7794 substance listed in Section 58-37-4.2 if:

7795 (a) the person was the subject of medical research conducted by a holder of a valid
7796 license to possess controlled substances under Section 58-37-6; and

7797 (b) the substance was administered to the person by the medical researcher.

7798 (15) The application of any increase in penalty under this section to a violation of

7799 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.
7800 This Subsection (15) takes precedence over any conflicting provision of this section.
7801 (16)(a) It is an affirmative defense to an allegation of the commission of an offense
7802 listed in Subsection (16)(b) that the person or bystander:
7803 (i) reasonably believes that the person or another person is experiencing an overdose
7804 event due to the ingestion, injection, inhalation, or other introduction into the
7805 human body of a controlled substance or other substance;
7806 (ii) reports, or assists a person who reports, in good faith the overdose event to a
7807 medical provider, an emergency medical service provider as defined in Section
7808 53-2d-101, a law enforcement officer, a 911 emergency call system, or an
7809 emergency dispatch system, or the person is the subject of a report made under
7810 this Subsection (16);
7811 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
7812 actual location of the overdose event that facilitates responding to the person
7813 experiencing the overdose event;
7814 (iv) remains at the location of the person experiencing the overdose event until a
7815 responding law enforcement officer or emergency medical service provider
7816 arrives, or remains at the medical care facility where the person experiencing an
7817 overdose event is located until a responding law enforcement officer arrives;
7818 (v) cooperates with the responding medical provider, emergency medical service
7819 provider, and law enforcement officer, including providing information regarding
7820 the person experiencing the overdose event and any substances the person may
7821 have injected, inhaled, or otherwise introduced into the person's body; and
7822 (vi) is alleged to have committed the offense in the same course of events from which
7823 the reported overdose arose.
7824 (b) The offenses referred to in Subsection (16)(a) are:
7825 (i) the possession or use of less than 16 ounces of marijuana;
7826 (ii) the possession or use of a scheduled or listed controlled substance other than
7827 marijuana; and
7828 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
7829 Imitation Controlled Substances Act.

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7830 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
7831 include seeking medical assistance under this section during the course of a law
7832 enforcement agency's execution of a search warrant, execution of an arrest warrant,
7833 or other lawful search.

7834 (17) If any provision of this chapter, or the application of any provision to any person or
7835 circumstances, is held invalid, the remainder of this chapter shall be given effect without
7836 the invalid provision or application.

7837 (18) A legislative body of a political subdivision may not enact an ordinance that is less
7838 restrictive than any provision of this chapter.

7839 (19) If a minor who is under 18 years old is found by a court to have violated this section or
7840 Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
7841 complete:

7842 (a) a screening as defined in Section 41-6a-501;

7843 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
7844 assessment to be appropriate; and

7845 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
7846 treatment as indicated by an assessment.

7847 Section 110. Section **58-37-8.1**, which is renumbered from Section 76-10-2204 is renumbered
7848 and amended to read:

7849 ~~[76-10-2204]~~ **58-37-8.1 . Duty to report drug diversion.**

7850 (1) As used in this section:

7851 (a) "Diversion" means a practitioner's transfer of a significant amount of drugs to
7852 another individual for an unlawful purpose.

7853 (b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in
7854 Section 58-37-4, that is an opiate.

7855 (c) "HIPAA" means the same as that term is defined in Section 26B-3-126.

7856 (d) "Opiate" means the same as that term is defined in Section 58-37-2.

7857 (e) "Practitioner" means an individual:

7858 (i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to
7859 administer, dispense, distribute, or prescribe a drug in the course of professional
7860 practice; or

7861 (ii) employed by a person who is licensed, registered, or otherwise authorized by the
7862 appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in
7863 the course of professional practice or standard operations.

7864 (f) "Significant amount" means an aggregate amount equal to, or more than, 500
7865 morphine milligram equivalents calculated in accordance with guidelines developed
7866 by the Centers for Disease Control and Prevention[~~-(CDC)~~].

7867 (2) An individual is guilty of a class B misdemeanor if the individual:

7868 (a) knows that a practitioner is involved in diversion; and

7869 (b) knowingly fails to report the diversion to a peace officer or law enforcement agency.

7870 (3) Subsection (2) does not apply to the extent that an individual is prohibited from
7871 reporting by 42 C.F.R. Part 2 or HIPAA.

7872 Section 111. Section **58-37-8.2**, which is renumbered from Section 76-10-2203 is renumbered
7873 and amended to read:

7874 **[76-10-2203]58-37-8.2 . Possession, sale, or use of an adulterant or synthetic urine.**

7875 (1) As used in this section, "adulterant" means a substance that may be added to human
7876 urine or another human bodily fluid to change, dilute, or interfere with the composition,
7877 chemical properties, physical appearance, or physical properties of the urine or other
7878 bodily fluid.

7879 (2) Under circumstances not amounting to a violation of Section 76-8-510.5, ~~[it is unlawful~~
7880 ~~for a person to]~~ Tampering with evidence, a person commits possession, sale or use of an
7881 adulterant or synthetic urine if the person:

7882 (a) ~~[distribute, possess, or sell-]~~ distributes, possesses, or sells synthetic urine;

7883 (b) ~~[distribute or sell-]~~ distributes or sells an adulterant with:

7884 (i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening
7885 test; or

7886 (ii) knowledge that the recipient of the adulterant intends to use the adulterant to
7887 defeat or defraud an alcohol or drug screening test;

7888 (c) ~~[possess-]~~ possesses an adulterant with intent to use the adulterant to defeat or defraud
7889 an alcohol or drug screening test; or

7890 (d) intentionally ~~[use]~~ uses:

7891 (i) an adulterant to defeat or defraud an alcohol or drug screening test;

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7892 (ii) the person's urine or bodily fluid to defeat or defraud an alcohol or drug screening
7893 test if the urine or bodily fluid was expelled or withdrawn before the time at which
7894 the urine or bodily fluid is collected for the test; or

7895 (iii) the urine or bodily fluid of another person to defeat or defraud an alcohol or drug
7896 screening test.

7897 (3) ~~[A person who violates this section is guilty of-]~~ A violation of this section is an
7898 infraction.

7899 (4) A person ~~[is not guilty of a violation of this section for]~~ does not commit a violation of
7900 Subsection (2) if the person is engaging in conduct described in this section for the sole
7901 purpose of education or medical or scientific research.

7902 (5) This section does not apply to persons currently under:

7903 (a) court-ordered supervision; or

7904 (b) the supervision of the Board of Pardons and Parole.

7905 (6) An entity that collects specimens for the purpose of testing and screening, and reports
7906 the results back to an employer, shall report to the employer and the Department of
7907 Public Safety if a report is received that indicates that adulterated or synthetic urine was
7908 submitted for an alcohol or drug screening test.

7909 Section 112. Section **58-63-307** is amended to read:

7910 **58-63-307 . Use of firearms.**

7911 (1) An individual licensed as an armored car security officer or an armed private security
7912 officer may carry a firearm only while acting as an armored car security officer or an
7913 armed private security officer in accordance with this chapter and rules made under this
7914 chapter.

7915 (2) An individual licensed as an armored car security officer or an armed private security
7916 officer is exempt from the provisions of Section ~~[76-10-505]~~ 76-11-203 and Title 53,
7917 Chapter 5, Part 7, Concealed Firearm Act, while acting as an armored car security
7918 officer or an armed private security officer in accordance with this chapter and rules
7919 made under this chapter.

7920 Section 113. Section **59-1-501** is amended to read:

7921 **59-1-501 . Procedure for obtaining redetermination of a deficiency -- Claim for**
7922 **refund.**

- 7923 (1) As used in this section:
- 7924 (a) "Legal holiday" means the same as that term is defined in Section 59-10-518.
- 7925 (b) "Tax, fee, or charge" means the same as that term is defined in Section 59-1-1402.
- 7926 (2) A person may file a request for agency action, petitioning the commission for
- 7927 redetermination of a deficiency.
- 7928 (3) Subject to Subsections (4) through (6), a person shall file the request for agency action
- 7929 described in Subsection (2):
- 7930 (a) within a 30-day period after the date the commission mails a notice of deficiency to
- 7931 the person in accordance with Section 59-1-1405; or
- 7932 (b) within a 90-day period after the date the commission mails a notice of deficiency to
- 7933 the person in accordance with Section 59-1-1405 if the notice of deficiency is
- 7934 addressed to a person outside the United States or the District of Columbia.
- 7935 (4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday, or
- 7936 legal holiday, the last day for a person to file a request for agency action is the next day
- 7937 that is not a Saturday, Sunday, or legal holiday.
- 7938 (5) A person that mails a request for agency action shall mail the request for agency action
- 7939 in accordance with Section 59-1-1404.
- 7940 (6) For purposes of Subsection (3), a person is considered to have filed a request for agency
- 7941 action:
- 7942 (a) if the person mails the request for agency action, on the date the person is considered
- 7943 to have mailed the request for agency action in accordance with Section 59-1-1404; or
- 7944 (b) if the person delivers the request for agency action to the commission by a method
- 7945 other than mail, on the date the commission receives the request for agency action.
- 7946 (7) A person that has not previously filed a timely request for agency action in accordance
- 7947 with Subsection (3) may object to a final assessment issued by the commission by:
- 7948 (a) paying the tax, fee, or charge, penalty accrued in accordance with Section 59-1-401,
- 7949 or interest accrued in accordance with Section 59-1-402; and
- 7950 (b) filing a claim for a refund as provided in Section 59-1-1410.
- 7951 Section 114. Section **59-14-102** is amended to read:
- 7952 **59-14-102 . Definitions.**
- 7953 As used in this chapter:

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- 7954 (1) "Alternative nicotine product" means the same as that term is defined in Section [
7955 ~~76-10-101~~] 76-9-1101.
- 7956 (2) "Cigarette" means a roll made wholly or in part of tobacco:
7957 (a) regardless of:
7958 (i) the size of the roll;
7959 (ii) the shape of the roll;
7960 (iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient;
7961 or
7962 (iv) whether the tobacco is heated or burned; and
7963 (b) if the roll has a wrapper or cover that is made of paper or any other substance or
7964 material except tobacco.
- 7965 (3) "Cigarette rolling machine" means a device or machine that has the capability to
7966 produce at least 150 cigarettes in less than 30 minutes.
- 7967 (4) "Cigarette rolling machine operator" means a person who:
7968 (a)(i) controls, leases, owns, possesses, or otherwise has available for use a cigarette
7969 rolling machine; and
7970 (ii) makes the cigarette rolling machine available for use by another person to
7971 produce a cigarette; or
7972 (b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.
- 7973 (5) "Consumer" means a person that is not required:
7974 (a) under Section 59-14-201 to obtain a license under Section 59-14-202;
7975 (b) under Section 59-14-301 to obtain a license under Section 59-14-202; or
7976 (c) to obtain a license under Section 59-14-803.
- 7977 (6) "Counterfeit cigarette" means:
7978 (a) a cigarette that has a false manufacturing label; or
7979 (b) a package of cigarettes bearing a counterfeit tax stamp.
- 7980 (7)(a) "Electronic cigarette" means the same as that term is defined in Section [
7981 ~~76-10-101~~] 76-9-1101.
7982 (b) "Electronic cigarette" does not include a cigarette or a tobacco product.
- 7983 (8) "Electronic cigarette product" means the same as that term is defined in Section [
7984 ~~76-10-101~~] 76-9-1101.

- 7985 (9) "Electronic cigarette substance" means the same as that term is defined in Section [
7986 ~~76-10-101~~] 76-9-1101.
- 7987 (10) "Importer" means a person that imports into the United States, either directly or
7988 indirectly, a finished cigarette for sale or distribution.
- 7989 (11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any
7990 other person doing business as a distributor or retailer of cigarettes on tribal lands
7991 located in the state.
- 7992 (12) "Little cigar" means a roll for smoking that:
7993 (a) is made wholly or in part of tobacco;
7994 (b) uses an integrated cellulose acetate filter or other similar filter; and
7995 (c) is wrapped in a substance:
7996 (i) containing tobacco; and
7997 (ii) that is not exclusively natural leaf tobacco.
- 7998 (13)(a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:
7999 (i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or
8000 (ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels,
8001 repackages, relabels, or imports an electronic cigarette product or a nicotine
8002 product.
- 8003 (b) "Manufacturer" does not include a cigarette rolling machine operator.
- 8004 (14) "Moist snuff" means tobacco that:
8005 (a) is finely cut, ground, or powdered;
8006 (b) has at least 45% moisture content, as determined by the commission by rule made in
8007 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
8008 (c) is not intended to be:
8009 (i) smoked; or
8010 (ii) placed in the nasal cavity; and
8011 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or
8012 distributed in single-use units, including:
8013 (i) tablets;
8014 (ii) lozenges;
8015 (iii) strips;

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- 8016 (iv) sticks; or
- 8017 (v) packages containing multiple single-use units.
- 8018 (15) "Nicotine" means the same as that term is defined in Section ~~[76-10-101]~~ 76-9-1101.
- 8019 (16) "Nicotine product" means the same as that term is defined in Section ~~[76-10-101]~~
- 8020 76-9-1101.
- 8021 (17) "Nontherapeutic nicotine device" means the same as that term is defined in Section [~~76-10-101]~~
- 8022 76-9-1101.
- 8023 (18) "Nontherapeutic nicotine device substance" means the same as that term is defined in
- 8024 Section ~~[76-10-101]~~ 76-9-1101.
- 8025 (19) "Nontherapeutic nicotine product" means the same as that term is defined in Section [~~76-10-101]~~
- 8026 76-9-1101.
- 8027 (20) "Prefilled electronic cigarette" means the same as that term is defined in Section [~~76-10-101]~~
- 8028 76-9-1101.
- 8029 (21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in
- 8030 Section ~~[76-10-101]~~ 76-9-1101.
- 8031 (22) "Retailer" means a person that:
- 8032 (a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to
- 8033 a consumer in the state; or
- 8034 (b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine
- 8035 product to a consumer in the state.
- 8036 (23) "Stamp" means the indicia required to be placed on a cigarette package that evidences
- 8037 payment of the tax on cigarettes required by Section 59-14-205.
- 8038 (24)(a) "Tobacco product" means a product made of, or containing, tobacco.
- 8039 (b) "Tobacco product" includes:
- 8040 (i) a cigarette produced from a cigarette rolling machine;
- 8041 (ii) a little cigar; or
- 8042 (iii) moist snuff.
- 8043 (c) "Tobacco product" does not include a cigarette.
- 8044 (25) "Tribal lands" means land held by the United States in trust for a federally recognized
- 8045 Indian tribe.
- 8046 Section 115. Section **59-14-501.5** is enacted to read:

8047 **59-14-501.5 . Advertising warning label requirements.**

8048 (1) For purposes of this section, "smokeless tobacco" means any finely cut, ground,
8049 powdered, or leaf tobacco that is intended to be placed in an oral cavity or nasal passage.

8050 (2)(a) An advertisement for smokeless tobacco placed in a newspaper, magazine, or
8051 periodical published in this state must bear a warning that states: "Use of smokeless
8052 tobacco may cause oral cancer and other mouth disorders and is addictive."

8053 (b) The warning described in Subsection (2)(a) shall be placed in a conspicuous location
8054 and in conspicuous and legible type, in contrast with the typography, layout, and
8055 color of all other printed material in the advertisement.

8056 Section 116. Section **59-14-507** is amended to read:

8057 **59-14-507 . Penalty for violation.**

8058 [~~Violation of this part~~] A violation of any of the following sections is a class

8059 B misdemeanor:

8060 (1) Section 59-14-501, Warning labels required;

8061 (2) Section 59-14-502, Requirements for placement of warning labels;

8062 (3) Section 59-14-504, Responsibility for placement of warning labels; or

8063 (4) Section 59-14-509, Restrictions on mail order or Internet sales.

8064 Section 117. Section **59-14-807** is amended to read:

8065 **59-14-807 . Electronic Cigarette Substance and Nicotine Product Proceeds**
8066 **Restricted Account.**

8067 (1) There is created within the General Fund a restricted account known as the "Electronic
8068 Cigarette Substance and Nicotine Product Proceeds Restricted Account."

8069 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account
8070 consists of:

8071 (a) revenue collected from the tax imposed by Section 59-14-804;

8072 (b) fees and penalties collected under Section 59-14-810;

8073 (c) all money received by the attorney general or the Department of Commerce as a
8074 result of any judgment, settlement, or compromise of claims pertaining to alleged
8075 violations of law related to the manufacture, marketing, distribution, or sale of
8076 electronic cigarette products, as defined in Section [~~76-10-101~~] 76-9-1101:

8077 (i) if the total amount of the judgment, settlement, or compromise received by the

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- 8078 state exceeds \$1,000,000; and
- 8079 (ii) after reimbursement to the attorney general and the Department of Commerce for
- 8080 expenses related to the matters described in Subsection (2)(c); and
- 8081 (d) amounts appropriated by the Legislature.
- 8082 (3)(a) For each fiscal year and subject to appropriation by the Legislature, the Division
- 8083 of Finance shall distribute from the Electronic Cigarette Substance and Nicotine
- 8084 Product Proceeds Restricted Account:
- 8085 (i) \$2,000,000, which shall be allocated to the local health departments by the
- 8086 Department of Health and Human Services using the formula created in
- 8087 accordance with Section 26A-1-116;
- 8088 (ii) \$2,000,000 to the Department of Health and Human Services for statewide
- 8089 cessation programs and prevention education;
- 8090 (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers
- 8091 aimed at disrupting organizations and networks that provide tobacco products,
- 8092 electronic cigarette products, nicotine products, and other illegal controlled
- 8093 substances to minors;
- 8094 (iv) \$3,000,000, which shall be allocated to the local health departments by the
- 8095 Department of Health and Human Services using the formula created in
- 8096 accordance with Section 26A-1-116;
- 8097 (v) \$5,084,200 to the State Board of Education for school-based prevention programs;
- 8098 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol,
- 8099 tobacco, and other drug prevention, reduction, cessation, and control programs
- 8100 that promote unified messages and make use of media outlets, including radio,
- 8101 newspaper, billboards, and television; and
- 8102 (vii) of the money deposited under Section 59-14-810:
- 8103 (A) to the commission, in an amount equal to the amount necessary to create and
- 8104 maintain the registry described in Section 59-14-810;
- 8105 (B) to the Department of Health and Human Services, in an amount necessary for
- 8106 completing duties described in Section 59-14-810; and
- 8107 (C) to the Department of Health and Human Services, the remainder to be divided
- 8108 among the local health departments for inspection and enforcement described

- 8109 in Sections 26A-1-131 and 59-14-810.
- 8110 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds
8111 Restricted Account is insufficient to cover the distributions described in Subsection
8112 (3)(a), the distribution amounts shall be adjusted proportionately.
- 8113 (4)(a) The local health departments shall use the money received in accordance with
8114 Subsection (3)(a) for enforcing:
- 8115 (i) the regulation provisions described in Section 26B-7-505;
8116 (ii) the labeling requirement described in Section 26B-7-505; and
8117 (iii) the penalty provisions described in Section 26B-7-518.
- 8118 (b) The Department of Health and Human Services shall use the money received in
8119 accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana,
8120 and Other Drug Prevention Program created in Section 26B-1-428.
- 8121 (c) The local health departments shall use the money received in accordance with
8122 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and
8123 Other Drug Prevention Grant Program created in Section 26A-1-129.
- 8124 (d) The State Board of Education shall use the money received in accordance with
8125 Subsection (3)(a)(v) to distribute to local education agencies to pay for:
- 8126 (i)(A) stipends for positive behaviors specialists as described in Subsection
8127 53G-10-407(4)(a)(i);
8128 (B) the cost of administering the positive behaviors plan as described in
8129 Subsection 53G-10-407(4)(a)(ii); and
8130 (C) the cost of implementing an Underage Drinking and Substance Abuse
8131 Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406
8132 (3)(b); or
8133 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
- 8134 (5)(a) The fund shall earn interest.
- 8135 (b) All interest earned on fund money shall be deposited into the fund.
- 8136 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
8137 Substance and Nicotine Product Proceeds Restricted Account after the distribution
8138 described in Subsection (3) may only be used for:
- 8139 (a) funding commission personnel to enforce compliance with the tax collection

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8140 requirements of this part; and
8141 (b) programs and activities related to the prevention and cessation of electronic cigarette,
8142 nicotine products, marijuana, and other drug use.

8143 Section 118. Section **59-14-810** is amended to read:

8144 **59-14-810 . Electronic cigarette product registry.**

8145 (1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that
8146 is sold in this state, whether directly or through a distributor, wholesaler, retailer, or
8147 similar intermediary or intermediaries, shall certify under penalty of perjury on a form
8148 and in the manner prescribed by the commission, that:

8149 (a) the manufacturer agrees to comply with this section; and

8150 (b) the electronic cigarette product is a premarket authorized or pending electronic
8151 cigarette product as defined in Section [~~76-10-101~~] 76-9-1101 and will not be illegal
8152 to be sold in the state as of January 1, 2025.

8153 (2) When submitting the certification a manufacturer shall submit a form that separately
8154 lists each electronic cigarette product that is sold in this state.

8155 (3)(a) Each certification form shall include:

8156 (i) the name of the electronic cigarette product, nicotine content level by percentage,
8157 and any flavors contained in the product;

8158 (ii)(A) a copy of the order granting a premarket tobacco product application of
8159 the electronic cigarette product by the United States Food and Drug
8160 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

8161 (B) evidence that the premarket tobacco product application for the electronic
8162 cigarette product or nicotine product was submitted to the United States Food
8163 and Drug Administration before September 9, 2020, and a final authorization
8164 or order has not yet taken effect;

8165 (iii) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added
8166 to the registry in the first instance; and

8167 (iv) information described in Subsection (10) if applicable.

8168 (b) The commission shall make the materials submitted under Subsection (3)(a)
8169 available to the Department of Health and Human Services for review and approval.

8170 (c) A manufacturer required to submit a certification form under this section shall notify

- 8171 the commission and the Department of Health and Human Services in a manner
8172 prescribed by the commission within 30 days of any material change making the
8173 certification form no longer accurate, including:
- 8174 (i) the issuance or denial of a marketing authorization or other order by the United
8175 States Food and Drug Administration under 21 U.S.C. Sec. 387j; or
 - 8176 (ii) any other order or action by the United States Food and Drug Administration or
8177 any court that affects the ability of the electronic cigarette product to be
8178 introduced or delivered into interstate commerce for commercial distribution in
8179 the United States.
- 8180 (d) On or before January 31 of each year and in a manner prescribed by the commission,
8181 a manufacturer shall:
- 8182 (i) recertify that the information contained in the certification is correct and accurate;
 - 8183 (ii) correct or amend information if necessary; and
 - 8184 (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry
8185 that is manufactured by the manufacturer.
- 8186 (e) A manufacturer may amend a certification, including to add additional electronic
8187 cigarette products to the registry, if all requirements of this section are met.
- 8188 (f) The commission shall:
- 8189 (i) provide an electronic notification to a manufacturer that has not submitted a
8190 recertification under Subsection (3)(d); and
 - 8191 (ii) remove a manufacturer or an electronic cigarette product that is not recertified
8192 from the registry by March 15.
- 8193 (4)(a) The Department of Health and Human Services shall review materials described
8194 in Subsection (3)(a) and notify the commission regarding whether an electronic
8195 cigarette product should be included in the registry.
- 8196 (b) On or before October 1, 2024, the commission shall make publicly available on the
8197 commission's website a registry that lists each electronic cigarette product
8198 manufacturer and each electronic cigarette product for which certification forms have
8199 been approved by the Department of Health and Human Services.
 - 8200 (c) An electronic cigarette product may not be listed on the registry unless the
8201 Department of Health and Human Services determines the requirements of

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8202 Subsection (3)(a) are met.

8203 (5)(a) If the Department of Health and Human Services obtains information that an
8204 electronic cigarette product should not be listed in the registry, the Department of
8205 Health and Human Services shall provide the manufacturer notice and an opportunity
8206 to cure deficiencies before notifying the commission to remove the manufacturer or
8207 products from the registry.

8208 (b) Except as provided in Subsection (5)(c), the Department of Health and Human
8209 Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act,
8210 before notifying the commission to remove an electronic cigarette product or
8211 manufacturer from the registry.

8212 (c) Subsection (5)(b) does not apply to a manufacturer failing:

8213 (i) to decertify an electronic cigarette product;

8214 (ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

8215 (iii) to comply with Subsection (10).

8216 (6)(a) If a product is removed from the registry, each retailer, distributor, and
8217 wholesaler shall have 30 days from the day on which the product is removed from the
8218 registry to remove the product from any inventory and return the product to the
8219 manufacturer for disposal.

8220 (b) After the period described in Subsection (6)(a), any electronic cigarette product of a
8221 manufacturer identified in the notice of removal are contraband and are subject to
8222 penalties under Subsection (8) and seizure, forfeiture, and destruction under Section
8223 26A-1-131.

8224 (7)(a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an
8225 electronic cigarette product in this state that is not included in the registry.

8226 (b) A manufacturer may not sell, either directly or through a distributor, wholesaler,
8227 retailer, or similar intermediary or intermediaries, an electronic cigarette product in
8228 this state that is not included in the registry.

8229 (8)(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an
8230 electronic cigarette product in this state that is not included in the registry shall be
8231 subject to a civil penalty of:

8232 (i) \$1,000 for each product offered for sale in violation of this section; and

- 8233 (ii) \$100 per day until the offending product is removed from the market or until the
8234 offending product is properly listed on the registry.
- 8235 (b) The commission shall suspend the person's license issued under Section 59-14-803
8236 for a violation of Subsection (8)(a) as follows:
- 8237 (i) for a second violation within a 12-month period, at least 14 days;
8238 (ii) for a third violation within a 12-month period, at least 60 days; or
8239 (iii) for a fourth violation within a 12-month period, at least one year.
- 8240 (c) A manufacturer whose electronic cigarette products are not listed in the registry and
8241 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or
8242 similar intermediary or intermediaries, is subject to a civil penalty of:
- 8243 (i) \$1,000 for each product offered for retail sale in violation of this section; and
8244 (ii) \$100 per day until the offending product is removed from the market or until the
8245 offending product is properly listed on the registry.
- 8246 (d) A manufacturer that falsely represents any information required by a certification
8247 form described in this section shall be guilty of a class C misdemeanor for each false
8248 representation.
- 8249 (e) A repeated violation of this section shall constitute a deceptive act or practice as
8250 provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or
8251 penalties available for a violation of those sections.
- 8252 (9)(a) To assist in ensuring compliance and enforcement of this section and Section
8253 26A-1-131, the commission shall disclose to the following entities, upon request, any
8254 information obtained under this section:
- 8255 (i) the Department of Health and Human Services;
8256 (ii) a local health department; or
8257 (iii) the attorney general.
- 8258 (b) The commission and attorney general shall share with each other information
8259 received under this section, or corresponding laws of other states.
- 8260 (10)(a)(i) The commission may not list a nonresident manufacturer of an electronic
8261 cigarette product in the registry unless:
- 8262 (A) the nonresident manufacturer has registered to do business in the state as a
8263 foreign corporation or business entity; or

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8264 (B) the nonresident manufacturer appoints and maintains without interruption the
8265 services of an agent in this state to receive any service of process on behalf of
8266 the manufacturer.

8267 (b) The nonresident manufacturer shall provide the name, address, and telephone
8268 number of the agent to the commission.

8269 (c)(i) A nonresident manufacturer shall provide notice to the commission 30 days
8270 before the termination of the authority of an agent and shall further provide proof
8271 to the satisfaction of the commission of the appointment of a new agent no less
8272 than five calendar days prior to the termination of an existing agent appointment.

8273 (ii) In the event an agent terminates an agency appointment, the manufacturer shall
8274 notify the commission of the termination within five calendar days and shall
8275 include proof to the satisfaction of the commission of the appointment of a new
8276 agent.

8277 (11) Before May 31 of each year, the commission and the Department of Health and
8278 Human Services shall provide a report to the Revenue and Taxation Interim Committee
8279 and the Health and Human Services Interim Committee regarding:

8280 (a) the status of the registry;

8281 (b) manufacturers and products included in the registry;

8282 (c) revenue and expenditures related to administration of this section; and

8283 (d) enforcement activities undertaken under this section and Section 26A-1-131.

8284 (12) All fees and penalties collected under this section shall be used for administration and
8285 enforcement of this section and Section 26A-1-131.

8286 (13) The commission, in consultation with the Department of Health and Human Services,
8287 may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
8288 Rulemaking Act, to implement this section.

8289 Section 119. Section **59-27-105** is amended to read:

8290 **59-27-105 . Sexually Explicit Business and Escort Service Fund -- Administrative**
8291 **charge.**

8292 (1) There is created an expendable special revenue fund called the "Sexually Explicit
8293 Business and Escort Service Fund."

8294 (2)(a) Except as provided in Subsection (3), the fund consists of all amounts collected

- 8295 by the commission under this chapter.
- 8296 (b)(i) The money in the fund shall be invested by the state treasurer pursuant to Title
8297 51, Chapter 7, State Money Management Act.
- 8298 (ii) All interest or other earnings derived from the fund money shall be deposited in
8299 the fund.
- 8300 (3) Notwithstanding any other provision of this chapter, the commission shall retain and
8301 deposit an administrative charge in accordance with Section 59-1-306 from the revenues
8302 the commission collects from a tax under this chapter.
- 8303 (4)(a) Fund money shall be used as provided in this Subsection (4).
- 8304 (b) The Department of Corrections shall use 60% of the money in the fund, in addition
8305 to existing budgets, to provide treatment services to nonworking or indigent adults
8306 who:
- 8307 (i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual
8308 Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and
8309 (ii) are not currently confined or incarcerated in a jail or prison.
- 8310 (c) The Adult Probation and Parole section of the Department of Corrections shall use
8311 15% of the money in the fund to provide outpatient treatment services to individuals
8312 who:
- 8313 (i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual
8314 Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and
8315 (ii) are not currently confined or incarcerated in a jail or prison.
- 8316 (d) The Department of Corrections shall use 10% of the money in the fund, in addition
8317 to existing budgets, to implement treatment programs for juveniles who have been
8318 convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, not
8319 including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
- 8320 (e) The attorney general shall use 15% of the money in the fund to provide funding for
8321 any task force:
- 8322 (i) administered through the Office of the Attorney General; and
8323 (ii) that investigates and prosecutes individuals who use the Internet to commit
8324 crimes against children.
- 8325 Section 120. Section **63G-6a-2505** is amended to read:

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8326 **63G-6a-2505 . Debarment or suspension from consideration for award of**
8327 **contracts.**

8328 (1) The executive director may:

8329 (a) debar or suspend a person from consideration for an award of a contract for a human
8330 services procurement item for any amount of time in accordance with the process
8331 described in Subsection 63G-6a-904(1); and

8332 (b) obtain the recommendation of the council before debarring or suspending the person.

8333 (2) The council shall recommend that the executive director debar or suspend a person for
8334 an award of a contract for a human services procurement item if the person:

8335 (a) is convicted of a criminal offense:

8336 (i) for actions taken to obtain or perform under a public or private contract;

8337 (ii) for embezzlement, fraud, theft, forgery, bribery, falsification or destruction of
8338 records, or receiving stolen property; or

8339 (iii) under [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~] Title 76, Chapter 16,
8340 Part 5, Antitrust Offenses, or another antitrust law;

8341 (b) fails, without good cause, to perform in accordance with the terms of a contract with
8342 the department;

8343 (c) commits two or more violations of department rules made in accordance with Title
8344 63G, Chapter 3, Utah Administrative Rulemaking Act;

8345 (d) violates this chapter;

8346 (e) poses a significant risk of harm to department clients or the department;

8347 (f) is barred or suspended from providing services to another governmental agency; or

8348 (g) takes another action that the council determines is fraudulent or substantially affects
8349 the person's ability to perform under a contract with the department for a human
8350 services procurement item.

8351 Section 121. Section **63G-7-301** is amended to read:

8352 **63G-7-301 . Waivers of immunity.**

8353 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
8354 obligation.

8355 (b) Actions arising out of contractual rights or obligations are not subject to the
8356 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

- 8357 (c) The Division of Water Resources is not liable for failure to deliver water from a
8358 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
8359 Development Act, if the failure to deliver the contractual amount of water is due to
8360 drought, other natural condition, or safety condition that causes a deficiency in the
8361 amount of available water.
- 8362 (2) Immunity from suit of each governmental entity is waived:
- 8363 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
8364 personal property;
- 8365 (b) as to any action brought to foreclose mortgages or other liens on real or personal
8366 property, to determine any adverse claim on real or personal property, or to obtain an
8367 adjudication about any mortgage or other lien that the governmental entity may have
8368 or claim on real or personal property;
- 8369 (c) as to any action based on the negligent destruction, damage, or loss of goods,
8370 merchandise, or other property while it is in the possession of any governmental
8371 entity or employee, if the property was seized for the purpose of forfeiture under any
8372 provision of state law;
- 8373 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
8374 Constitution, Article I, Section 22, for the recovery of compensation from the governmental
8375 entity when the governmental entity has taken or damaged private property for public uses
8376 without just compensation;
- 8377 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
8378 63G-2-802;
- 8379 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
8380 Act;
- 8381 (g) as to any action brought to obtain relief from a land use regulation that imposes a
8382 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah
8383 Religious Land Use Act;
- 8384 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 8385 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
8386 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
8387 them; or

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- 8388 (ii) any defective or dangerous condition of a public building, structure, dam,
8389 reservoir, or other public improvement;
- 8390 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
8391 caused by a negligent act or omission of an employee committed within the scope of
8392 employment;
- 8393 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
8394 sexual battery, as provided in Section ~~[76-9-702.1]~~ 76-5-418, committed:
- 8395 (i) against a student of a public elementary or secondary school, including a charter
8396 school; and
- 8397 (ii) by an employee of a public elementary or secondary school or charter school who:
- 8398 (A) at the time of the sexual battery, held a position of special trust, as defined in
8399 Section 76-5-404.1, with respect to the student;
- 8400 (B) is criminally charged in connection with the sexual battery; and
- 8401 (C) the public elementary or secondary school or charter school knew or in the
8402 exercise of reasonable care should have known, at the time of the employee's
8403 hiring, to be a sex offender, kidnap offender, or child abuse offender as defined
8404 in Section 77-41-102, required to register under Title 77, Chapter 41, Sex,
8405 Kidnap, and Child Abuse Offender Registry, whose status as a sex offender,
8406 kidnap offender, or child abuse offender would have been revealed in a
8407 background check under Section 53G-11-402;
- 8408 (k) as to any action brought under Section 78B-6-2303; and
- 8409 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student
8410 Legal Representation.
- 8411 (3)(a) As used in this Subsection (3):
- 8412 (i) "Code of conduct" means a code of conduct that:
- 8413 (A) is not less stringent than a model code of conduct, created by the State Board
8414 of Education, establishing a professional standard of care for preventing the
8415 conduct described in Subsection (3)(a)(i)(D);
- 8416 (B) is adopted by the applicable local education governing body;
- 8417 (C) regulates behavior of a school employee toward a student; and
- 8418 (D) includes a prohibition against any sexual conduct between an employee and a

8419 student and against the employee and student sharing any sexually explicit or
8420 lewd communication, image, or photograph.

8421 (ii) "Local education agency" means:

8422 (A) a school district;

8423 (B) a charter school; or

8424 (C) the Utah Schools for the Deaf and the Blind.

8425 (iii) "Local education governing board" means:

8426 (A) for a school district, the local school board;

8427 (B) for a charter school, the charter school governing board; or

8428 (C) for the Utah Schools for the Deaf and the Blind, the state board.

8429 (iv) "Public school" means a public elementary or secondary school.

8430 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

8431 (vi) "Sexual battery" means the offense described in Section ~~[76-9-702.1]~~ 76-5-418,
8432 considering the term "child" in that section to include an individual under age 18.

8433 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
8434 claim against a local education agency for an injury resulting from a sexual battery or
8435 sexual abuse committed against a student of a public school by a paid employee of
8436 the public school who is criminally charged in connection with the sexual battery or
8437 sexual abuse, unless:

8438 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
8439 code of conduct; and

8440 (ii) before the sexual battery or sexual abuse occurred, the public school had:

8441 (A) provided training on the code of conduct to the employee; and

8442 (B) required the employee to sign a statement acknowledging that the employee
8443 has read and understands the code of conduct.

8444 (4)(a) As used in this Subsection (4):

8445 (i) "Higher education institution" means an institution included within the state
8446 system of higher education under Section 53B-1-102.

8447 (ii) "Policy governing behavior" means a policy adopted by a higher education
8448 institution or the Utah Board of Higher Education that:

8449 (A) establishes a professional standard of care for preventing the conduct

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- 8450 described in Subsections (4)(a)(ii)(C) and (D);
- 8451 (B) regulates behavior of a special trust employee toward a subordinate student;
- 8452 (C) includes a prohibition against any sexual conduct between a special trust
- 8453 employee and a subordinate student; and
- 8454 (D) includes a prohibition against a special trust employee and subordinate student
- 8455 sharing any sexually explicit or lewd communication, image, or photograph.
- 8456 (iii) "Sexual battery" means the offense described in Section [~~76-9-702.1~~] 76-5-418.
- 8457 (iv) "Special trust employee" means an employee of a higher education institution
- 8458 who is in a position of special trust, as defined in Section 76-5-404.1, with a
- 8459 higher education student.
- 8460 (v) "Subordinate student" means a student:
- 8461 (A) of a higher education institution; and
- 8462 (B) whose educational opportunities could be adversely impacted by a special
- 8463 trust employee.
- 8464 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 8465 claim for an injury resulting from a sexual battery committed against a subordinate
- 8466 student by a special trust employee, unless:
- 8467 (i) the institution proves that the special trust employee's behavior that otherwise
- 8468 would constitute a sexual battery was:
- 8469 (A) with a subordinate student who was at least 18 years old at the time of the
- 8470 behavior; and
- 8471 (B) with the student's consent; or
- 8472 (ii)(A) at the time of the sexual battery, the higher education institution was
- 8473 subject to a policy governing behavior; and
- 8474 (B) before the sexual battery occurred, the higher education institution had taken
- 8475 steps to implement and enforce the policy governing behavior.
- 8476 Section 122. Section **63G-12-102** is amended to read:
- 8477 **63G-12-102 . Definitions.**
- 8478 As used in this chapter:
- 8479 (1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a
- 8480 federally qualified high deductible health plan.

- 8481 (2) "Department" means the Department of Public Safety created in Section 53-1-103.
- 8482 (3) "Employee" means an individual employed by an employer under a contract for hire.
- 8483 (4) "Employer" means a person who has one or more employees employed in the same
- 8484 business, or in or about the same establishment, under any contract of hire, express or
- 8485 implied, oral or written.
- 8486 (5) "E-verify program" means the electronic verification of the work authorization program
- 8487 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C.
- 8488 Sec. 1324a, known as the e-verify program.
- 8489 (6) "Family member" means for an undocumented individual:
- 8490 (a) a member of the undocumented individual's immediate family;
- 8491 (b) the undocumented individual's grandparent;
- 8492 (c) the undocumented individual's sibling;
- 8493 (d) the undocumented individual's grandchild;
- 8494 (e) the undocumented individual's nephew;
- 8495 (f) the undocumented individual's niece;
- 8496 (g) a spouse of an individual described in this Subsection (6); or
- 8497 (h) an individual who is similar to one listed in this Subsection (6).
- 8498 (7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements
- 8499 Program operated by the United States Department of Homeland Security or an
- 8500 equivalent program designated by the Department of Homeland Security.
- 8501 (8) "Guest worker" means an undocumented individual who holds a guest worker permit.
- 8502 (9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to
- 8503 an undocumented individual who meets the eligibility criteria of Section 63G-12-205.
- 8504 (10) "Immediate family" means for an undocumented individual:
- 8505 (a) the undocumented individual's spouse; or
- 8506 (b) a child of the undocumented individual if the child is:
- 8507 (i) under 21 years old; and
- 8508 (ii) unmarried.
- 8509 (11) "Immediate family permit" means a permit issued in accordance with Section
- 8510 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section
- 8511 63G-12-206.

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- 8512 (12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:
8513 (a) a guest worker permit; and
8514 (b) an immediate family permit.
- 8515 (13) "Permit holder" means an undocumented individual who holds a permit.
- 8516 (14) "Private employer" means an employer who is not the federal government or a public
8517 employer.
- 8518 (15) "Program" means the Guest Worker Program described in Section 63G-12-201.
- 8519 (16) "Program start date" means the day on which the department is required to implement
8520 the program under Subsection 63G-12-202(3).
- 8521 (17) "Public employer" means an employer that is:
8522 (a) the state of Utah or any administrative subunit of the state;
8523 (b) a state institution of higher education, as defined in Section 53B-3-102;
8524 (c) a political subdivision of the state including a county, city, town, school district,
8525 special district, or special service district; or
8526 (d) an administrative subunit of a political subdivision.
- 8527 (18) "Relevant contact information" means the following for an undocumented individual:
8528 (a) the undocumented individual's name;
8529 (b) the undocumented individual's residential address;
8530 (c) the undocumented individual's residential telephone number;
8531 (d) the undocumented individual's personal email address;
8532 (e) the name of the person with whom the undocumented individual has a contract for
8533 hire;
8534 (f) the name of the contact person for the person listed in Subsection (18)(e);
8535 (g) the address of the person listed in Subsection (18)(e);
8536 (h) the telephone number for the person listed in Subsection (18)(e);
8537 (i) the names of the undocumented individual's immediate family members;
8538 (j) the names of the family members who reside with the undocumented individual; and
8539 (k) any other information required by the department by rule made in accordance with
8540 Chapter 3, Utah Administrative Rulemaking Act.
- 8541 (19) "Restricted account" means the Immigration Act Restricted Account created in Section
8542 63G-12-103.

- 8543 (20) "Serious felony" means a felony under:
- 8544 (a) Section 53-5a-304;
- 8545 (b) Title 76, Chapter 5, Offenses Against the Individual;
- 8546 ~~[(b)]~~ (c) Title 76, Chapter 5b, Sexual Exploitation Act;
- 8547 (d) Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances;
- 8548 (e) Title 76, Chapter 5d, Prostitution;
- 8549 ~~[(e)]~~ (f) Title 76, Chapter 6, Offenses Against Property;
- 8550 ~~[(d)]~~ (g) Title 76, Chapter 7, Offenses Against the Family;
- 8551 ~~[(e)]~~ (h) Title 76, Chapter 8, Offenses Against the Administration of Government;
- 8552 (i) Title 76, Chapter 9, Offenses Against Public Order, Health, and Safety;
- 8553 (j) Title 76, Chapter 11, Weapons;
- 8554 (k) Title 76, Chapter 12, Offenses Related to Privacy, Information, and Communication;
- 8555 (l) Title 76, Chapter 13, Offenses Involving Cruelty to Animals;
- 8556 (m) Title 76, Chapter 14, Offenses Related to Immigration Status;
- 8557 (n) Title 76, Chapter 15, Explosives and Weapons of Mass Destruction;
- 8558 (o) Title 76, Chapter 16, Offenses Concerning Business Practices; and
- 8559 (p) Title 76, Chapter 17, Offenses Concerning Kickbacks, Pyramid Schemes, and
- 8560 Patterns of Unlawful Activity.
- 8561 ~~[(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and]~~
- 8562 ~~[(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.]~~
- 8563 (21)(a) "Status verification system" means an electronic system operated by the federal
- 8564 government, through which an authorized official of a state agency or a political
- 8565 subdivision of the state may inquire by exercise of authority delegated pursuant to 8
- 8566 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual
- 8567 within the jurisdiction of the agency or political subdivision for a purpose authorized
- 8568 under this section.
- 8569 (b) "Status verification system" includes:
- 8570 (i) the e-verify program;
- 8571 (ii) an equivalent federal program designated by the United States Department of
- 8572 Homeland Security or other federal agency authorized to verify the work
- 8573 eligibility status of a newly hired employee pursuant to the Immigration Reform

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- 8574 and Control Act of 1986;
- 8575 (iii) the Social Security Number Verification Service or similar online verification
- 8576 process implemented by the United States Social Security Administration; or
- 8577 (iv) an independent third-party system with an equal or higher degree of reliability as
- 8578 the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).
- 8579 (22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).
- 8580 (23) "Undocumented individual" means an individual who:
- 8581 (a) lives or works in the state; and
- 8582 (b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et
- 8583 seq. with regard to presence in the United States.
- 8584 (24) "U-verify program" means the verification procedure developed by the department in
- 8585 accordance with Section 63G-12-210.
- 8586 Section 123. Section **63G-12-106** is amended to read:
- 8587 **63G-12-106 . Severability.**
- 8588 (1) If a provision of Part 2, Guest Worker Program, or the application of a provision to a
- 8589 person or circumstance is held invalid, the remainder of this chapter may not be given
- 8590 effect without the invalid provision or application so that the provisions of this chapter
- 8591 are not severable.
- 8592 (2) The following provisions are severable from this chapter:
- 8593 (a) [~~Title 76, Chapter 9, Part 10, The Illegal Immigration Enforcement Act~~] Title 76,
- 8594 Chapter 14, Offenses Related to Immigration Status; and
- 8595 [~~(b) Section 76-10-2901; and~~]
- 8596 [~~(c)~~] (b) Section 77-7-2.
- 8597 Section 124. Section **63G-31-302** is amended to read:
- 8598 **63G-31-302 . Sex-designated changing rooms in publicly owned facilities open to**
- 8599 **the general public.**
- 8600 (1)(a) Except as provided in Subsection (1)(b), to preserve the individual privacy of
- 8601 males and females, an individual may only access an operational sex-designated
- 8602 changing room in a government entity's facility that is open to the general public if:
- 8603 (i) the individual's sex corresponds with the sex designation of the changing room; or
- 8604 (ii) the individual has:

8605 (A) legally amended the individual's birth certificate to correspond with the sex
8606 designation of the changing room, which may be supported with a review of
8607 any amendment history obtained under Section 26B-8-125; and

8608 (B) undergone a primary sex characteristic surgical procedure as defined in
8609 Section 58-67-102 to correspond with the sex designation of the changing
8610 room.

8611 (b) Subsection (1)(a) does not apply to:

8612 (i) a minor child who requires assistance to access or use the changing room that
8613 corresponds with the sex of the minor's parent, guardian, or relative;

8614 (ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as
8615 defined in Section 76-5-111 who requires assistance to access or use the changing
8616 room that corresponds with the sex of a caretaker;

8617 (iii) an individual providing public safety services, including law enforcement,
8618 emergency medical services as defined in Section 26B-4-101, and fire protection;

8619 (iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide
8620 health care services to a patient of the health care facility; or

8621 (v) an individual whose employment duties include the maintenance or cleaning of
8622 the changing room.

8623 (2) An individual in a changing room has a reasonable expectation of privacy, satisfying the
8624 privacy element of the [~~offense of voyeurism in~~
8626 ~~Section 76-9-702.7.~~] following offenses:

8627 (a) voyeurism, as described in Section 76-12-306; and

8628 (b) recorded or photographed voyeurism, as described in Section 76-12-307.

8629 (3) An individual who knowingly enters a changing room in violation of Subsection (1)
8630 commits the offense of criminal trespass under Section 76-6-206 if the individual enters
8631 or remains in the changing room under circumstances which a reasonable person would
8632 expect to likely cause affront or alarm to, on, or in the presence of another individual.

8633 (4) The surgical provision described in Subsection (1)(a)(ii) does not shield an individual
8634 from the offense of lewdness related to genitalia under Subsection [~~76-9-702(3)]~~
8635 ~~76-5-419(6) or [76-9-702.5(4)]~~ 76-5-420(5).

8636 (5) An individual may use the following evidence as a defense against an allegation that the

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- 8637 individual is not eligible to access and use a sex-designated changing room under
8638 Subsection (1):
- 8639 (a) for an individual whose birth sex corresponds with the sex designation of the
8640 changing room:
- 8641 (i) an individual's unamended birth certificate that corresponds with the sex
8642 designation of the changing room, which may be supported with a review of any
8643 amendment history obtained under Section 26B-8-125; or
- 8644 (ii) documentation of a medical treatment or procedure that is consistent only with
8645 the sex designation of the changing room; or
- 8646 (b) for an individual whose birth sex does not correspond with the sex designation of the
8647 changing room:
- 8648 (i) the individual's amended birth certificate, which may be supported with a review
8649 of any amendment history obtained under Section 26B-8-125; and
- 8650 (ii) documentation that demonstrates that the individual has undergone a primary sex
8651 characteristic surgical procedure as defined in Section 58-67-102.
- 8652 (6) Subsection (1) does not apply to:
- 8653 (a) a unisex or single-occupant facility;
- 8654 (b) a changing room that is not open to the general public; or
- 8655 (c) an intersex individual.
- 8656 Section 125. Section **63G-31-304** is amended to read:
- 8657 **63G-31-304 . Government entity facility compliance.**
- 8658 (1) Except as provided under Section 53G-8-211, a government entity shall contact law
8659 enforcement if the entity receives a complaint or allegation regarding the following
8660 within a privacy space in a facility that is open to the general public:
- 8661 (a) an offense of lewdness [~~under~~] as described in Section [76-9-702] 76-5-419;
- 8662 (b) an offense of lewdness involving a child [~~under~~] as described in Section [76-9-702.5]
8663 76-5-420;
- 8664 (c) voyeurism [~~under~~] as described in Section [76-9-702.7] 76-12-306;
- 8665 (d) recorded or photographed voyeurism as described in Section 76-12-307;
- 8666 (e) distribution of images obtained through voyeurism as described in Section 76-12-308;
- 8667 [~~(d)~~] (f) loitering in a privacy space [~~under~~] as described in Section [76-9-702.8] 76-12-309;

- 8668 or
- 8669 [(e)] (g) for a changing room described in Section 63G-31-302, an offense of criminal
- 8670 trespass under Subsection 63G-31-302(2).
- 8671 (2) To preserve the individual privacy of males and females in privacy spaces:
- 8672 (a) a government entity shall adopt a privacy compliance plan to address compliance
- 8673 with the government entity's duties under this chapter;
- 8674 (b) for construction of a new facility, a government entity shall ensure that the new
- 8675 construction includes a single-occupant facility; and
- 8676 (c) for existing privacy spaces, a government entity:
- 8677 (i) shall consider the feasibility of retrofitting or remodeling to include:
- 8678 (A) floor-to-ceiling walls and doors or similar privacy protections;
- 8679 (B) curtains; or
- 8680 (C) other methods of improving individual privacy within the facility that are
- 8681 comparable to the methods described in Subsections (2)(a)(i) and (ii); and
- 8682 (ii) may reduce the number of fixtures that state law requires by up to 20% to provide
- 8683 adequate space for the retrofitting or remodeling described in Subsection (2)(a).
- 8684 (3) A government entity shall ensure sufficient sex-designated privacy spaces through
- 8685 compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.
- 8686 Section 126. Section **63I-1-276** is amended to read:
- 8687 **63I-1-276 . Repeal dates: Title 76.**
- 8688 (1) Subsection 76-7-313(6), regarding a report provided by the Department of Health and
- 8689 Human Services, is repealed July 1, 2027.
- 8690 (2) Section [~~76-10-526.1~~] 53-5a-303, Information check before private sale of firearm, is
- 8691 repealed July 1, 2025.
- 8692 Section 127. Section **63I-2-276** is amended to read:
- 8693 **63I-2-276 . Repeal dates: Title 76.**
- 8694 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee
- 8695 of a health facility, is repealed January 1, 2027.
- 8696 (2) Subsection [~~76-10-529(9)~~] 76-11-215(10), regarding data collection requirements for a
- 8697 law enforcement agency that issues a written warning, citation, or referral, is repealed
- 8698 December 31, 2031.

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8699 Section 128. Section **63M-7-502** is amended to read:

8700 **63M-7-502 . Definitions.**

8701 As used in this part:

8702 (1) "Accomplice" means an individual who has engaged in criminal conduct as described in
8703 Section 76-2-202.

8704 (2) "Advocacy services provider" means the same as that term is defined in Section
8705 77-38-403.

8706 (3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

8707 (4) "Claimant" means any of the following claiming reparations under this part:

8708 (a) a victim;

8709 (b) a dependent of a deceased victim; or

8710 (c) an individual or representative who files a reparations claim on behalf of a victim.

8711 (5) "Child" means an unemancipated individual who is under 18 years old.

8712 (6) "Collateral source" means any source of benefits or advantages for economic loss
8713 otherwise reparable under this part that the claimant has received, or that is readily
8714 available to the claimant from:

8715 (a) the offender;

8716 (b) the insurance of the offender or the victim;

8717 (c) the United States government or any of its agencies, a state or any of its political
8718 subdivisions, or an instrumentality of two or more states, except in the case on
8719 nonobligatory state-funded programs;

8720 (d) social security, Medicare, and Medicaid;

8721 (e) state-required temporary nonoccupational income replacement insurance or disability
8722 income insurance;

8723 (f) workers' compensation;

8724 (g) wage continuation programs of any employer;

8725 (h) proceeds of a contract of insurance payable to the claimant for the loss the claimant
8726 sustained because of the criminally injurious conduct;

8727 (i) a contract providing prepaid hospital and other health care services or benefits for
8728 disability; or

8729 (j) veteran's benefits, including veteran's hospitalization benefits.

- 8730 (7)(a) "Confidential record" means a record in the custody of the office that relates to a
8731 claimant's eligibility for a reparations award.
- 8732 (b) "Confidential record" includes:
- 8733 (i) a reparations claim;
- 8734 (ii) any correspondence regarding:
- 8735 (A) the approval or denial of a reparations claim; or
- 8736 (B) the payment of a reparations award;
- 8737 (iii) a document submitted to the office in support of a reparations award;
- 8738 (iv) a medical or mental health treatment plan; and
- 8739 (v) an investigative report provided to the office by a law enforcement agency.
- 8740 (8) "Criminal justice system victim advocate" means the same as that term is defined in
8741 Section 77-38-403.
- 8742 (9)(a) "Criminally injurious conduct" other than acts of war declared or not declared
8743 means conduct that:
- 8744 (i) is or would be subject to prosecution in this state under Section 76-1-201;
- 8745 (ii) occurs or is attempted;
- 8746 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 8747 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
8748 conduct possessed the capacity to commit the conduct; and
- 8749 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
8750 aircraft, or water craft, unless the conduct is:
- 8751 (A) intended to cause bodily injury or death;
- 8752 (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or
- 8753 (C) chargeable as an offense for driving under the influence of alcohol or drugs.
- 8754 (b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
8755 other conduct leading to the psychological injury of an individual resulting from
8756 living in a setting that involves a bigamous relationship.
- 8757 (10)(a) "Dependent" means a natural person to whom the victim is wholly or partially
8758 legally responsible for care or support.
- 8759 (b) "Dependent" includes a child of the victim born after the victim's death.
- 8760 (11) "Dependent's economic loss" means loss after the victim's death of contributions of

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8761 things of economic value to the victim's dependent, not including services the dependent
8762 would have received from the victim if the victim had not suffered the fatal injury, less
8763 expenses of the dependent avoided by reason of victim's death.

8764 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
8765 incurred by the dependent after the victim's death in obtaining services in lieu of those
8766 the decedent would have performed for the victim's benefit if the victim had not suffered
8767 the fatal injury, less expenses of the dependent avoided by reason of the victim's death
8768 and not subtracted in calculating the dependent's economic loss.

8769 (13) "Director" means the director of the office.

8770 (14) "Disposition" means the sentencing or determination of penalty or punishment to be
8771 imposed upon an individual:

8772 (a) convicted of a crime;

8773 (b) found delinquent; or

8774 (c) against whom a finding of sufficient facts for conviction or finding of delinquency is
8775 made.

8776 (15)(a) "Economic loss" means economic detriment consisting only of allowable
8777 expense, work loss, replacement services loss, and if injury causes death, dependent's
8778 economic loss and dependent's replacement service loss.

8779 (b) "Economic loss" includes economic detriment even if caused by pain and suffering
8780 or physical impairment.

8781 (c) "Economic loss" does not include noneconomic detriment.

8782 (16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

8783 (17) "Fraudulent claim" means a filed reparations based on material misrepresentation of
8784 fact and intended to deceive the reparations staff for the purpose of obtaining reparation
8785 funds for which the claimant is not eligible.

8786 (18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

8787 (19)(a) "Interpersonal violence" means an act involving violence, physical harm, or a
8788 threat of violence or physical harm, that is committed by an individual who is or has
8789 been in a domestic, dating, sexual, or intimate relationship with the victim.

8790 (b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act
8791 described in Subsection (19)(a).

- 8792 (20) "Law enforcement agency" means a public or private agency having general police
8793 power and charged with making arrests in connection with enforcement of the criminal
8794 statutes and ordinances of this state or any political subdivision of this state.
- 8795 (21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- 8796 (22)(a) "Medical examination" means a physical examination necessary to document
8797 criminally injurious conduct.
- 8798 (b) "Medical examination" does not include mental health evaluations for the
8799 prosecution and investigation of a crime.
- 8800 (23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a
8801 result of criminally injurious conduct, is subject to rules made by the office in
8802 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 8803 (24) "Misconduct" means conduct by the victim that was attributable to the injury or death
8804 of the victim as provided by rules made by the office in accordance with Title 63G,
8805 Chapter 3, Utah Administrative Rulemaking Act.
- 8806 (25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment,
8807 and other nonpecuniary damage, except as provided in this part.
- 8808 (26) "Nongovernment organization victim advocate" means the same as that term is defined
8809 in Section 77-38-403.
- 8810 (27) "Nonpublic restitution record" means a restitution record that contains a claimant's
8811 medical or mental health information
- 8812 (28) "Pecuniary loss" does not include loss attributable to pain and suffering except as
8813 otherwise provided in this part.
- 8814 (29) "Offender" means an individual who has violated Title 76, Utah Criminal Code,
8815 through criminally injurious conduct regardless of whether the individual is arrested,
8816 prosecuted, or convicted.
- 8817 (30) "Offense" means a violation of Title 76, Utah Criminal Code.
- 8818 (31) "Office" means the director, the reparations and assistance officers, and any other staff
8819 employed for the purpose of carrying out the provisions of this part.
- 8820 (32) "Perpetrator" means the individual who actually participated in the criminally injurious
8821 conduct.
- 8822 (33) "Public restitution record" means a restitution record that does not contain a claimant's

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- 8823 medical or mental health information.
- 8824 (34)(a) "Rape crisis and services center" means a nonprofit entity that assists victims of
8825 sexual assault and victims' families by offering sexual assault crisis intervention and
8826 counseling through a sexual assault counselor.
- 8827 (b) "Rape crisis and services center" does not include a qualified institutional victim
8828 services provider as defined in Section 53B-28-201.
- 8829 (35) "Reparations award" means money or other benefits provided to a claimant or to
8830 another on behalf of a claimant after the day on which a reparations claim is approved
8831 by the office.
- 8832 (36) "Reparations claim" means a claimant's request or application made to the office for a
8833 reparations award.
- 8834 (37)(a) "Reparations officer" means an individual employed by the office to investigate
8835 a claimant's request for reparations and award reparations under this part.
- 8836 (b) "Reparations officer" includes the director when the director is acting as a
8837 reparations officer.
- 8838 (38) "Replacement service loss" means expenses reasonably and necessarily incurred in
8839 obtaining ordinary and necessary services in lieu of those the injured individual would
8840 have performed, not for income but the benefit of the injured individual or the injured
8841 individual's dependents if the injured individual had not been injured.
- 8842 (39)(a) "Representative" means the victim, immediate family member, legal guardian,
8843 attorney, conservator, executor, or an heir of an individual.
- 8844 (b) "Representative" does not include a service provider or collateral source.
- 8845 (40) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 8846 (41)(a) "Restitution record" means a record documenting payments made to, or on
8847 behalf of, a claimant by the office that the office relies on to support a restitution
8848 request made in accordance with Section 77-38b-205.
- 8849 (b) "Restitution record" includes:
- 8850 (i) a notice of restitution;
- 8851 (ii) an itemized list of payments;
- 8852 (iii) an invoice, receipt, or bill submitted to the office for reimbursement; and
- 8853 (iv) any documentation that the office relies on to establish a nexus between an

8854 offender's criminally injurious conduct and a reparations award made by the office.

8855 (42) "Secondary victim" means an individual who is traumatically affected by the
8856 criminally injurious conduct subject to rules made by the office in accordance with Title
8857 63G, Chapter 3, Utah Administrative Rulemaking Act.

8858 (43) "Service provider" means an individual or agency who provides a service to a claimant
8859 for a monetary fee, except attorneys as provided in Section 63M-7-524.

8860 (44) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

8861 (45) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4,
8862 Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

8863 (46) "Sexual assault counselor" means an individual who:

8864 (a) is employed by or volunteers at a rape crisis and services center;

8865 (b) has a minimum of 40 hours of training in counseling and assisting victims of sexual
8866 assault; and

8867 (c) is under the supervision of the director of a rape crisis and services center or the
8868 director's designee.

8869 (47) "Strangulation" means any act involving the use of unlawful force or violence that:

8870 (a) impedes breathing or the circulation of blood; and

8871 (b) is likely to produce a loss of consciousness by:

8872 (i) applying pressure to the neck or throat of an individual; or

8873 (ii) obstructing the nose, mouth, or airway of an individual.

8874 (48) "Substantial bodily injury" means the same as that term is defined in Section
8875 76-1-101.5.

8876 (49)(a) "Victim" means an individual who suffers bodily or psychological injury or
8877 death as a direct result of:

8878 (i) criminally injurious conduct; or

8879 (ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1
8880 if the individual is a minor.

8881 (b) "Victim" does not include an individual who participated in or observed the judicial
8882 proceedings against an offender unless otherwise provided by statute or rule made in
8883 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

8884 (50) "Work loss" means loss of income from work the injured victim would have performed

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8885 if the injured victim had not been injured and expenses reasonably incurred by the
8886 injured victim in obtaining services in lieu of those the injured victim would have
8887 performed for income, reduced by any income from substitute work the injured victim
8888 was capable of performing but unreasonably failed to undertake.

8889 Section 129. Section **64-13-41** is amended to read:

8890 **64-13-41 . Limitations on offender access to sexually explicit material.**

8891 (1) As used in this section:

8892 (a)(i) "Commercially published information or material" means any book, booklet,
8893 pamphlet, magazine, periodical, newsletter, or similar document, including
8894 stationery and greeting cards, and video and audio tapes, disks, or other recording,
8895 that is distributed or made available through any means or media for a commercial
8896 purpose.

8897 (ii) "Commercially published information or material" includes an extraction,
8898 photocopy, clipping, or electronically created copy made from any of the items
8899 under Subsection (1)(a)(i).

8900 (b)(i) "Features nudity" means the information or material:

8901 (A) that, in the case of a one-time publication or issue, promotes itself based upon
8902 depictions of nudity or sexually explicit conduct; or

8903 (B) that, in the case of information or material other than under Subsection
8904 (1)(b)(i)(A), contains depictions of nudity or sexually explicit conduct on a
8905 routine or regular basis.

8906 (ii) The department may by rule, pursuant to Title 63G, Chapter 3, Utah
8907 Administrative Rulemaking Act, exclude from the definition in Subsection
8908 (1)(b)(i) information or material containing nudity that is illustrative of medical,
8909 educational, or anthropological content.

8910 (c) "Nudity" means a pictorial depiction where genitalia or female breasts are exposed.

8911 (d) "Offender" means any person who has been convicted of a crime and is housed in a
8912 prison, jail, youth detention facility, or community correctional center.

8913 (e) "Sexually explicit" means a pictorial depiction of actual or simulated sexual acts,
8914 including sexual intercourse, sodomy, or masturbation.

8915 (f) "State funds" means state or local funding provided to the department, and includes

8916 legislative appropriations to the department, dedicated credits, grants, and money for
8917 jail reimbursement to county correctional facilities under Title 64, Chapter 13,
8918 Department of Corrections - State Prison, private providers, and contractors.

8919 (2) State funds may not be used to distribute or make available any commercially published
8920 information or material to an offender when the state employee, contractor, or private
8921 provider who has the authority to expend the funds knows that the commercially
8922 published information or material is sexually explicit or features nudity.

8923 (3)(a) When the department rejects commercially published information or material for
8924 distribution to an offender under this section, the department shall advise the
8925 publisher or sender that it may request reconsideration by the department of the
8926 decision to reject the material. However, the department need advise the publisher or
8927 sender only once in the case of information or material that on a routine or regular
8928 basis either depicts sexually explicit material or features nudity.

8929 (b) The department shall make rules pursuant to Title 63G, Chapter 3, Utah
8930 Administrative Rulemaking Act, to establish an administrative reconsideration
8931 process.

8932 (c) For purposes of extraordinary relief under Rule 65B, Utah Rules of Civil Procedure,
8933 this administrative reconsideration process is a plain, speedy, and adequate legal
8934 remedy that must be exhausted before extraordinary relief is available.

8935 (d) There is no right to judicial review of the department's decision under this section to
8936 reject material for distribution.

8937 (4) This section does not apply to sexually explicit material used under [~~Section~~
8938 ~~76-10-1207.5~~] Subsection 76-5c-110(1) for the assessment or treatment of an offender.
8939 Section 130. Section **67-5-22.7** is amended to read:

8940 **67-5-22.7 . Multi-agency strike force to combat violent and other major felony**
8941 **crimes associated with illegal immigration and human trafficking -- Fraudulent**
8942 **Documents Identification Unit.**

8943 (1) The Office of the Attorney General is authorized to administer and coordinate the
8944 operation of a multi-agency strike force to combat violent and other major felony crimes
8945 committed within the state that are associated with illegal immigration and human
8946 trafficking.

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- 8947 (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and
8948 state and local law enforcement personnel to participate in this mutually supportive,
8949 multi-agency strike force to more effectively utilize their combined skills, expertise, and
8950 resources.
- 8951 (3) The strike force shall focus its efforts on detecting, investigating, deterring, and
8952 eradicating violent and other major felony criminal activity related to illegal
8953 immigration and human trafficking.
- 8954 (4) In conjunction with the strike force and subject to available funding, the Office of the
8955 Attorney General shall establish a Fraudulent Documents Identification Unit:
- 8956 (a) for the primary purpose of investigating, apprehending, and prosecuting individuals
8957 or entities that participate in the sale or distribution of fraudulent documents used for
8958 identification purposes;
- 8959 (b) to specialize in fraudulent identification documents created and prepared for
8960 individuals who are unlawfully residing within the state; and
- 8961 (c) to administer the Identity Theft Victims Restricted Account created under Subsection
8962 (5).
- 8963 (5)(a) There is created a restricted account in the General Fund known as the "Identity
8964 Theft Victims Restricted Account."
- 8965 (b) The Identity Theft Victims Restricted Account shall consist of money appropriated
8966 to the Identity Theft Victims Restricted Account by the Legislature.
- 8967 (c) Subject to appropriations from the Legislature, beginning on the program start date,
8968 as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may
8969 expend the money in the Identity Theft Victims Restricted Account to pay a claim as
8970 provided in this Subsection (5) to a person who is a victim of identity theft
8971 prosecuted under Section 76-11-215 or 76-6-1102 [~~or 76-10-1801~~].
- 8972 (d) To obtain payment from the Identity Theft Victims Restricted Account, a person
8973 shall file a claim with the Fraudulent Documents Identification Unit by no later than
8974 one year after the day on which an individual is convicted, pleads guilty to, pleads no
8975 contest to, pleads guilty in a similar manner to, or resolved by diversion or its
8976 equivalent an offense under Section 76-11-215 or 76-6-1102 [~~or 76-10-1801~~] for
8977 the theft of the identity of the person filing the claim.

- 8978 (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the
8979 Fraudulent Documents Identification Unit:
- 8980 (i) that the person is the victim of identity theft described in Subsection (5)(d); and
8981 (ii) of the actual damages experienced by the person as a result of the identity theft
8982 that are not recovered from a public or private source.
- 8983 (f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity
8984 Theft Victims Restricted Account:
- 8985 (i) if the Fraudulent Documents Identification Unit determines that the person has
8986 provided sufficient evidence to meet the requirements of Subsection (5)(e);
8987 (ii) in the order that claims are filed with the Fraudulent Documents Identification
8988 Unit; and
8989 (iii) to the extent that it there is money in the Identity Theft Victims Restricted
8990 Account.
- 8991 (g) If there is insufficient money in the Identity Theft Victims Restrict Account when a
8992 claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent
8993 Documents Identification Unit may pay a claim when there is sufficient money in the
8994 account to pay the claim in the order that the claims are filed.
- 8995 (6) The strike force shall make an annual report on its activities to the governor and the
8996 Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1,
8997 together with any proposed recommendations for modifications to this section.

8998 Section 131. Section **67-5-40**, which is renumbered from Section 76-10-3114 is renumbered
8999 and amended to read:

9000 **~~[76-10-3114]~~67-5-40 . Attorney General Litigation Fund.**

- 9001 (1)(a) There is created an expendable special revenue fund known as the Attorney
9002 General Litigation Fund for the purpose of providing funds to pay for:
- 9003 (i) ~~any~~ costs and expenses incurred by the state attorney general in relation to
9004 actions under state or federal antitrust, criminal laws, or civil proceedings under
9005 Title 13, Chapter 44, Protection of Personal Information Act; and
9006 (ii) citizen education and outreach related to any item described in Subsection (1)(a)(i).
- 9007 (b) The funds described in Subsection (1)(a) are in addition to other funds as may be
9008 appropriated by the Legislature to the attorney general for the administration and

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9009 enforcement of the laws of this state.

9010 (c) At the close of any fiscal year, any balance in the fund in excess of \$4,000,000 shall
9011 be transferred to the General Fund.

9012 (d) The attorney general may expend money from the Attorney General Litigation Fund
9013 for the purposes in Subsection (1)(a).

9014 (2)(a) All money received by the state or [its] the state's agencies by reason of [any] a
9015 judgment, settlement, or compromise as the result of [any] an action commenced,
9016 investigated, or prosecuted by the attorney general, after payment of any fines,
9017 restitution, payments, costs, or fees allocated by the court, shall be deposited in the
9018 Attorney General Litigation Fund, except as provided in Subsection (2)(b).

9019 (b)(i) Any expenses advanced by the attorney general in any of the actions under
9020 Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.

9021 (ii) Any money recovered by the attorney general on behalf of [any] a private person
9022 or public body other than the state shall be paid to those persons or bodies from
9023 funds remaining after payment of expenses under Subsection (2)(b)(i).

9024 Section 132. Section **72-10-901** is amended to read:

9025 **72-10-901 . Definitions.**

9026 As used in this part, "weapon" means:

9027 (1) a firearm as that term is defined in Section [~~76-10-501~~] 76-11-101; or

9028 (2) an object that in the manner of the object's use or intended use is capable of causing
9029 death, bodily injury, or damage to property, as determined according to the following
9030 factors:

9031 (a) the location and circumstances in which the object is used or possessed;

9032 (b) the primary purpose for which the object is made;

9033 (c) the character of the damage, if any, the object is likely to cause;

9034 (d) the manner in which the object is used;

9035 (e) whether the manner in which the object is used or possessed constitutes a potential
9036 imminent threat to public safety; and

9037 (f) the lawful purposes for which the object may be used.

9038 Section 133. Section **73-2-27** is amended to read:

9039 **73-2-27 . Criminal penalties.**

- 9040 (1) This section applies to offenses committed under:
- 9041 (a) Section 73-1-14;
- 9042 (b) Section 73-1-15;
- 9043 (c) Section 73-2-20;
- 9044 (d) Section 73-3-3;
- 9045 (e) Section 73-3-26;
- 9046 (f) Section 73-3-29;
- 9047 (g) Section 73-5-9;
- 9048 (h) Section [~~76-10-201~~] 76-9-1202;
- 9049 (i) Section [~~76-10-202~~] 76-9-1203; and
- 9050 (j) Section [~~76-10-203~~] 76-9-1204.
- 9051 (2) Under circumstances not amounting to an offense with a greater penalty under
- 9052 Subsection 76-6-106(2)(a)(ii), Section 76-6-106.3, or Section 76-6-404, violation of a
- 9053 provision listed in Subsection (1) is punishable:
- 9054 (a) as a felony of the third degree if:
- 9055 (i) the value of the water diverted or property damaged or taken is \$2,500 or greater;
- 9056 and
- 9057 (ii) the person violating the provision has previously been convicted of violating the
- 9058 same provision;
- 9059 (b) as a class A misdemeanor if:
- 9060 (i) the value of the water diverted or property damaged or taken is \$2,500 or greater;
- 9061 or
- 9062 (ii) the person violating the provision has previously been convicted of violating the
- 9063 same provision; or
- 9064 (c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.
- 9065 Section 134. Section **73-29-102** is amended to read:
- 9066 **73-29-102 . Definitions.**
- 9067 As used in this chapter:
- 9068 (1) "Division" means the Division of Wildlife Resources.
- 9069 (2) "Floating access" means the right to access public water flowing over private property
- 9070 for floating and fishing while floating upon the water.

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- 9071 (3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of
9072 which is controlled by a dike, berm, or headgate that retains or manages the flow or
9073 depth of water, including connecting channels.
- 9074 (4) "Navigable water" means a water course that in its natural state without the aid of
9075 artificial means is useful for commerce and has a useful capacity as a public highway of
9076 transportation.
- 9077 (5) "Private property to which access is restricted" means privately owned real property:
9078 (a) that is cultivated land, as defined in Section 23A-5-317;
9079 (b) that is:
9080 (i) properly posted, as defined in Section 23A-5-317;
9081 (ii) posted as described in Subsection 76-6-206(2)(b)(iii); or
9082 (iii) posted as described in Subsection 76-6-206.3(2)(c);
9083 (c) that is fenced or enclosed as described in:
9084 (i) Subsection 76-6-206(2)(b)(ii); or
9085 (ii) Subsection 76-6-206.3(2)(b); or
9086 (d) that the owner or a person authorized to act on the owner's behalf has requested a
9087 person to leave as provided by:
9088 (i) Section 23A-5-317;
9089 (ii) Subsection 76-6-206(2)(b)(i); or
9090 (iii) Subsection 76-6-206.3(2)(a).
- 9091 (6) "Public access area" means the limited part of privately owned property that:
9092 (a) lies beneath or within three feet of a public water or that is the most direct, least
9093 invasive, and closest means of portage around an obstruction in a public water; and
9094 (b) is open to public recreational access under Section 73-29-203; and
9095 (c) can be accessed from an adjoining public assess area or public right-of-way.
- 9096 (7) "Public recreational access" means the right to engage in recreational access established
9097 in accordance with Section 73-29-203.
- 9098 (8)(a) "Public water" means water:
9099 (i) described in Section 73-1-1; and
9100 (ii) flowing or collecting on the surface:
9101 (A) within a natural or realigned channel; or

- 9102 (B) in a natural lake, pond, or reservoir on a natural or realigned channel.
- 9103 (b) "Public water" does not include water flowing or collecting:
- 9104 (i) on impounded wetland;
- 9105 (ii) on a migratory bird production area, as defined in Section 23A-13-101;
- 9106 (iii) on private property in a manmade:
- 9107 (A) irrigation canal;
- 9108 (B) irrigation ditch; or
- 9109 (C) impoundment or reservoir constructed outside of a natural or realigned
- 9110 channel; or
- 9111 (iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.
- 9112 (9)(a) "Recreational access" means to use a public water and to touch a public access
- 9113 area incidental to the use of the public water for:
- 9114 (i) floating;
- 9115 (ii) fishing; or
- 9116 (iii) waterfowl hunting conducted:
- 9117 (A) in compliance with applicable law or rule, including Sections 23A-5-314,
- 9118 73-29-203, and [~~76-10-508~~] 76-11-207; and
- 9119 (B) so that the individual who engages in the waterfowl hunting shoots a firearm
- 9120 only while within a public access area and no closer than 600 feet of any
- 9121 dwelling.
- 9122 (b) "Recreational access" does not include:
- 9123 (i) hunting, except as provided in Subsection (9)(a)(iii);
- 9124 (ii) wading without engaging in activity described in Subsection (9)(a); or
- 9125 (iii) any other activity.
- 9126 Section 135. Section **76-1-301** is amended to read:
- 9127 **76-1-301 . Offenses for which prosecution may be commenced at any time.**
- 9128 (1) As used in this section:
- 9129 (a) "Aggravating offense" means any offense incident to which a homicide was
- 9130 committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection
- 9131 76-5-202(2)(b).
- 9132 (b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a

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9133 person other than a party as defined in Section 76-2-202 was killed in the course of
9134 the commission, attempted commission, or immediate flight from the commission or
9135 attempted commission of the offense.

9136 (2) Notwithstanding any other provisions of this code, prosecution for the following
9137 offenses may be commenced at any time:

- 9138 (a) an offense classified as a capital felony under Section 76-3-103;
- 9139 (b) aggravated murder under Section 76-5-202;
- 9140 (c) murder under Section 76-5-203;
- 9141 (d) manslaughter under Section 76-5-205;
- 9142 (e) child abuse homicide under Section 76-5-208;
- 9143 (f) aggravated kidnapping under Section 76-5-302;
- 9144 (g) child kidnapping under Section 76-5-301.1;
- 9145 (h) rape under Section 76-5-402;
- 9146 (i) rape of a child under Section 76-5-402.1;
- 9147 (j) object rape under Section 76-5-402.2;
- 9148 (k) object rape of a child under Section 76-5-402.3;
- 9149 (l) forcible sodomy under Section 76-5-403;
- 9150 (m) sodomy on a child under Section 76-5-403.1;
- 9151 (n) sexual abuse of a child under Section 76-5-404.1;
- 9152 (o) aggravated sexual abuse of a child under Section 76-5-404.3;
- 9153 (p) aggravated sexual assault under Section 76-5-405;
- 9154 (q) any predicate offense to a murder or aggravating offense to an aggravated murder;
- 9155 (r) aggravated human trafficking under Section 76-5-310;
- 9156 (s) aggravated human smuggling under Section 76-5-310.1;
- 9157 [~~(t) aggravated exploitation of prostitution involving a child under Section 76-10-1306;~~
- 9158 ~~or~~]
- 9159 [~~(t)~~] (t) human trafficking of a child under Section 76-5-308.5[-] ; or
- 9160 (u) aggravated exploitation of prostitution involving a child under Section 76-5d-208.

9161 Section 136. Section **76-2-304.5** is amended to read:

9162 **76-2-304.5 . Mistake as to victim's age not a defense.**

9163 (1) It is not a defense to the following offenses that the actor mistakenly believed the victim

- 9164 to be 14 years old or older at the time of the alleged offense or was unaware of the
9165 victim's true age:
- 9166 (a) child kidnapping, Section 76-5-301.1;
 - 9167 (b) rape of a child, Section 76-5-402.1;
 - 9168 (c) object rape of a child, Section 76-5-402.3;
 - 9169 (d) sodomy on a child, Section 76-5-403.1;
 - 9170 (e) sexual abuse of a child, Section 76-5-404.1;
 - 9171 (f) aggravated sexual abuse of a child, Section 76-5-404.3;
 - 9172 (g) unlawful kissing of a child, Section 76-5-416.2; or
 - 9173 (h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).
- 9174 (2) It is not a defense to the following offenses that the actor mistakenly believed the victim
9175 to be 16 years old or older at the time of the alleged offense or was unaware of the
9176 victim's true age:
- 9177 (a) unlawful sexual activity with a minor, Section 76-5-401;
 - 9178 (b) sexual abuse of a minor, Section 76-5-401.1; or
 - 9179 (c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).
- 9180 (3) It is not a defense to the following offenses that the actor mistakenly believed the victim
9181 to be 18 years old or older at the time of the alleged offense or was unaware of the
9182 victim's true age:
- 9183 (a) human trafficking of a child, Section 76-5-308.5;
 - 9184 (b) aggravated human trafficking, Section 76-5-310;
 - 9185 (c) aggravated human smuggling, Section 76-5-310.1;
 - 9186 (d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);
 - 9187 (e) patronizing a [~~prostitute~~] child involved in prostitution, Section [~~76-10-1303~~]
9188 76-5d-204;
 - 9189 (f) aggravated exploitation of prostitution, Section [~~76-10-1306~~] 76-5d-208; or
 - 9190 (g) sexual solicitation of a child, Section [~~76-10-1313~~] 76-5d-210.
- 9193 Section 137. Section **76-2-306** is amended to read:
- 9194 **76-2-306 . Voluntary intoxication.**
- 9195 (1) Voluntary intoxication is not a defense to a criminal charge unless such intoxication
9196 negates the existence of the mental state which is an element of the offense. If

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9197 reckless or criminal negligence establishes an element of an offense and the actor is
9198 unaware of the risk because of voluntary intoxication, his unawareness is immaterial in a
9199 prosecution for that offense.

9200 (2) Voluntary intoxication is not a defense to sexual offenses, as defined in Title 76,
9201 Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419,
9202 or 76-5-420.

9203 Section 138. Section **76-3-203.1** is amended to read:

9204 **76-3-203.1 . Offenses committed in concert with three or more persons or in**
9205 **relation to a criminal street gang -- Notice -- Enhanced penalties.**

9206 (1) As used in this section:

9207 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

9208 (b) "In concert with three or more persons" means:

9209 (i) the defendant was aided or encouraged by at least three other persons in
9210 committing the offense and was aware of this aid or encouragement; and

9211 (ii) each of the other persons:

9212 (A) was physically present; and

9213 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).

9214 (c) "In concert with three or more persons" means, regarding intent:

9215 (i) other persons participating as parties need not have the intent to engage in the
9216 same offense or degree of offense as the defendant; and

9217 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
9218 minor were an adult.

9219 (2) A person who commits any offense in accordance with this section is subject to an
9220 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds
9221 beyond a reasonable doubt that the person acted:

9222 (a) in concert with three or more persons;

9223 (b) for the benefit of, at the direction of, or in association with any criminal street gang
9224 as defined in Section 76-9-802; or

9225 (c) to gain recognition, acceptance, membership, or increased status with a criminal
9226 street gang as defined in Section 76-9-802.

9227 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be

9228 subscribed upon the information or indictment notice that the defendant is subject to the
9229 enhanced penalties provided under this section.

9230 (4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

9231 (i) for a class B misdemeanor, as a class A misdemeanor; and

9232 (ii) for a class A misdemeanor, as a third degree felony.

9233 (b) The following offenses are subject to Subsection (4)(a):

9234 (i) criminal mischief as described in Section 76-6-106;

9235 (ii) property damage or destruction as described in Section 76-6-106.1; and

9236 (iii) defacement by graffiti as described in Section 76-6-107.

9237 (5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

9238 (i) for a class B misdemeanor, as a class A misdemeanor;

9239 (ii) for a class A misdemeanor, as a third degree felony; and

9240 (iii) for a third degree felony, as a second degree felony.

9241 (b) The following offenses are subject to Subsection (5)(a):

9242 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

9243 (ii) any offense of obstructing government operations under Chapter 8, Part 3,
9244 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,
9245 76-8-307, 76-8-308, and 76-8-312;

9246 (iii) tampering with a witness under Section 76-8-508;

9247 (iv) retaliation against a witness, victim, or informant, or other violation of Section
9248 76-8-508.3;

9249 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

9250 (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section
9251 76-8-509;

9252 (vii) any weapons offense under [~~Chapter 10, Part 5, Weapons~~] Chapter 11, Weapons;
9253 and

9254 (viii) any violation of [~~Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]
9255 Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity.

9256 (6)(a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

9257 (i) for a class B misdemeanor, as a class A misdemeanor;

9258 (ii) for a class A misdemeanor, as a third degree felony;

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- 9259 (iii) for a third degree felony, as a second degree felony; and
9260 (iv) for a second degree felony, as a first degree felony.
- 9261 (b) The following offenses are subject to Subsection (6)(a):
- 9262 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
9263 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
9264 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping,
9265 Trafficking, and Smuggling;
9266 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses, not including
9267 Section 76-5-417, 76-5-419, or 76-5-420;
9268 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
9269 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
9270 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
9271 (viii) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208.
- 9272 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the
9273 individual placed on probation for the higher level of offense.
- 9274 (8) It is not a bar to imposing the enhanced penalties under this section that the persons with
9275 whom the actor is alleged to have acted in concert are not identified, apprehended,
9276 charged, or convicted, or that any of those persons are charged with or convicted of a
9277 different or lesser offense.
- 9278 Section 139. Section **76-3-203.3** is amended to read:
9279 **76-3-203.3 . Penalty for hate crimes -- Civil rights violation.**
- 9280 As used in this section:
- 9281 (1) "Primary offense" means those offenses provided in Subsection (4).
- 9282 (2)(a) A person who commits any primary offense with the intent to intimidate or
9283 terrorize another person or with reason to believe that his action would intimidate or
9284 terrorize that person is subject to Subsection (2)(b).
- 9285 (b)(i) A class C misdemeanor primary offense is a class B misdemeanor; and
9286 (ii) a class B misdemeanor primary offense is a class A misdemeanor.
- 9287 (3) "Intimidate or terrorize" means an act which causes the person to fear for his physical
9288 safety or damages the property of that person or another. The act must be accompanied
9289 with the intent to cause or has the effect of causing a person to reasonably fear to freely

- 9290 exercise or enjoy any right secured by the Constitution or laws of the state or by the
9291 Constitution or laws of the United States.
- 9292 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:
- 9293 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107,
9294 and 76-5-108;
- 9295 (b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104,
9296 and Subsection 76-6-106(2)(a);
- 9297 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;
- 9298 (d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;
- 9299 (e) any offense of obstructing government operations under Sections 76-8-301,
9300 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and
9301 76-8-313;
- 9302 (f) any offense of interfering or intending to interfere with activities of colleges and
9303 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;
- 9304 (g) any misdemeanor offense against public order and decency as defined in Title 76,
9305 Chapter 9, Part 1, Breaches of the Peace and Related Offenses, not including Section
9306 76-9-105.5, 76-9-105.6, 76-9-110, 76-9-111, 76-9-112, 76-9-113, or 76-9-114;
- 9307 (h) any telephone abuse offense under [~~Title 76, Chapter 9, Part 2, Electronic~~
9308 ~~Communication and Telephone Abuse~~] Sections 76-12-202, 76-12-203, 76-12-204,
9309 and 76-12-206;
- 9310 (i) any cruelty to animals offense under [~~Section 76-9-301~~] Sections 76-13-202,
9311 76-13-203, and 76-13-204;
- 9312 (j) any weapons offense under Section [~~76-10-506~~] 76-11-205; or
- 9313 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.
- 9314 (5) This section does not affect or limit any individual's constitutional right to the lawful
9315 expression of free speech or other recognized rights secured by the Constitution or laws
9316 of the state or by the Constitution or laws of the United States.
- 9317 Section 140. Section **76-3-203.5** is amended to read:
- 9318 **76-3-203.5 . Habitual violent offender -- Definition -- Procedure -- Penalty.**
- 9319 (1) As used in this section:
- 9320 (a) "Felony" means any violation of a criminal statute of the state, any other state, the

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9321 United States, or any district, possession, or territory of the United States for which
9322 the maximum punishment the offender may be subjected to exceeds one year in
9323 prison.

9324 (b) "Habitual violent offender" means a person convicted within the state of any violent
9325 felony and who on at least two previous occasions has been convicted of a violent
9326 felony and committed to either prison in Utah or an equivalent correctional institution
9327 of another state or of the United States either at initial sentencing or after revocation
9328 of probation.

9329 (c) "Violent felony" means:

9330 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to
9331 commit any of the following offenses punishable as a felony:

9332 (A) arson as described in Section 76-6-102;

9333 (B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

9334 (C) criminal mischief as described in Section 76-6-106;

9335 (D) aggravated arson as described in Section 76-6-103;

9336 (E) assault by prisoner as described in Section 76-5-102.5;

9337 (F) disarming a police officer as described in Section 76-5-102.8;

9338 (G) aggravated assault as described in Section 76-5-103;

9339 (H) aggravated assault by prisoner as described in Section 76-5-103.5;

9340 (I) mayhem as described in Section 76-5-105;

9341 (J) stalking as described in Subsection 76-5-106.5(2);

9342 (K) threat of terrorism as described in Section 76-5-107.3;

9343 (L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

9344 (M) commission of domestic violence in the presence of a child as described in
9345 Section 76-5-114;

9346 (N) abuse or neglect of a child with a disability as described in Section 76-5-110;

9347 (O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111,
9348 76-5-111.2, 76-5-111.3, or 76-5-111.4;

9349 (P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

9350 (Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

9351 (R) kidnapping as described in Section 76-5-301;

- 9352 (S) child kidnapping as described in Section 76-5-301.1;
- 9353 (T) aggravated kidnapping as described in Section 76-5-302;
- 9354 (U) rape as described in Section 76-5-402;
- 9355 (V) rape of a child as described in Section 76-5-402.1;
- 9356 (W) object rape as described in Section 76-5-402.2;
- 9357 (X) object rape of a child as described in Section 76-5-402.3;
- 9358 (Y) forcible sodomy as described in Section 76-5-403;
- 9359 (Z) sodomy on a child as described in Section 76-5-403.1;
- 9360 (AA) forcible sexual abuse as described in Section 76-5-404;
- 9361 (BB) sexual abuse of a child as described in Section 76-5-404.1;
- 9362 (CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 9363 (DD) aggravated sexual assault as described in Section 76-5-405;
- 9364 (EE) sexual exploitation of a minor as described in Section 76-5b-201;
- 9365 (FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;
- 9366 (GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;
- 9367 (HH) aggravated exploitation of prostitution as described in Subsection
- 9368 76-5d-208(2)(a);
- 9369 [~~HH~~] (II) burglary as described in Subsection 76-6-202(3)(b);
- 9370 [~~H~~] (JJ) aggravated burglary as described in Section 76-6-203;
- 9371 [~~JJ~~] (KK) robbery as described in Section 76-6-301;
- 9372 [~~KK~~] (LL) aggravated robbery as described in Section 76-6-302;
- 9373 [~~LL~~] (MM) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or
- 9374 (1)(a)(ii);
- 9375 [~~MM~~] (NN) tampering with a witness as described in Section 76-8-508;
- 9376 [~~NN~~] (OO) retaliation against a witness, victim, or informant as described in
- 9377 Section 76-8-508.3;
- 9378 [~~OO~~] (PP) tampering or retaliating against a juror as described in Subsection
- 9379 76-8-508.5(2)(a)(iii);
- 9380 [~~PP~~] (QQ) extortion to dismiss a criminal proceeding as described in Subsection
- 9381 76-6-406(1)(a)(i), (ii), or (ix);
- 9382 [~~QQ~~] possession, use, or removal of explosive, chemical, or incendiary devices

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9383 as described in Subsections 76-10-306(3) through (6);]
9384 (RR) bus hijacking as described in Section 76-9-1502;
9385 (SS) assault with intent to commit bus hijacking as described in Section
9386 76-9-1503;
9387 (TT) purchase or possession of a dangerous weapon or handgun by a restricted
9388 person as described in Section 76-11-302;
9389 [~~RR~~] (UU) unlawful delivery of explosive, chemical, or incendiary devices as
9390 described in Section [76-10-307] 76-15-209;
9391 (VV) unlawful conduct involving an explosive, chemical, or incendiary device as
9392 described in Section 76-15-210;
9393 (WW) unlawful conduct involving an explosive, chemical, or incendiary part as
9394 described in Section 76-15-211;
9395 [~~SS~~] purchase or possession of a dangerous weapon or handgun by a restricted
9396 person as described in Section 76-10-503;]
9397 [~~TT~~] aggravated exploitation of prostitution as described in Subsection
9398 76-10-1306(1)(a);]
9399 [~~UU~~] bus hijacking as described in Section 76-10-1504; and]
9400 [~~VV~~] (XX) [discharging firearms and hurling missiles] unlawful discharge of a
9401 firearm or hurling of a missile into a bus or terminal as described in Section [
9402 76-10-1505] 76-9-1504; or
9403 (ii) any felony violation of a criminal statute of any other state, the United States, or
9404 any district, possession, or territory of the United States which would constitute a
9405 violent felony as defined in this Subsection (1) if committed in this state.
9406 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier
9407 of fact determines beyond a reasonable doubt that the person is a habitual violent
9408 offender under this section, the penalty for a:
9409 (a) third degree felony is as if the conviction were for a first degree felony;
9410 (b) second degree felony is as if the conviction were for a first degree felony; or
9411 (c) first degree felony remains the penalty for a first degree penalty except:
9412 (i) the convicted person is not eligible for probation; and
9413 (ii) the Board of Pardons and Parole shall consider that the convicted person is a

9414 habitual violent offender as an aggravating factor in determining the length of
9415 incarceration.

9416 (3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
9417 notice in the information or indictment that the defendant is subject to punishment as
9418 a habitual violent offender under this section. Notice shall include the case number,
9419 court, and date of conviction or commitment of any case relied upon by the
9420 prosecution.

9421 (b)(i) The defendant shall serve notice in writing upon the prosecutor if the
9422 defendant intends to deny that:

9423 (A) the defendant is the person who was convicted or committed;

9424 (B) the defendant was represented by counsel or had waived counsel; or

9425 (C) the defendant's plea was understandingly or voluntarily entered.

9426 (ii) The notice of denial shall be served not later than five days prior to trial and shall
9427 state in detail the defendant's contention regarding the previous conviction and
9428 commitment.

9429 (4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a
9430 jury, the jury may not be told, until after it returns its verdict on the underlying felony
9431 charge, of the:

9432 (i) defendant's previous convictions for violent felonies, except as otherwise provided
9433 in the Utah Rules of Evidence; or

9434 (ii) allegation against the defendant of being a habitual violent offender.

9435 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
9436 being an habitual violent offender by the same jury, if practicable, unless the
9437 defendant waives the jury, in which case the allegation shall be tried immediately to
9438 the court.

9439 (c)(i) Before or at the time of sentencing the trier of fact shall determine if this
9440 section applies.

9441 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution
9442 and the defendant shall be afforded an opportunity to present any necessary
9443 additional evidence.

9444 (iii) Before sentencing under this section, the trier of fact shall determine whether this

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- 9445 section is applicable beyond a reasonable doubt.
- 9446 (d) If any previous conviction and commitment is based upon a plea of guilty or no
9447 contest, there is a rebuttable presumption that the conviction and commitment were
9448 regular and lawful in all respects if the conviction and commitment occurred after
9449 January 1, 1970. If the conviction and commitment occurred prior to January 1,
9450 1970, the burden is on the prosecution to establish by a preponderance of the
9451 evidence that the defendant was then represented by counsel or had lawfully waived
9452 the right to have counsel present, and that the defendant's plea was understandingly
9453 and voluntarily entered.
- 9454 (e) If the trier of fact finds this section applicable, the court shall enter that specific
9455 finding on the record and shall indicate in the order of judgment and commitment
9456 that the defendant has been found by the trier of fact to be a habitual violent offender
9457 and is sentenced under this section.
- 9458 (5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the
9459 provisions of this section.
- 9460 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in
9461 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part
9462 4, Sexual Offenses, not including Section 76-5-417, 76-5-419, or 76-5-420, to
9463 determine if the convicted person is a habitual violent offender.
- 9464 (6) The sentencing enhancement described in this section does not apply if:
9465 (a) the offense for which the person is being sentenced is:
9466 (i) a grievous sexual offense;
9467 (ii) child kidnapping, Section 76-5-301.1;
9468 (iii) aggravated kidnapping, Section 76-5-302; or
9469 (iv) forcible sexual abuse, Section 76-5-404; and
9470 (b) applying the sentencing enhancement provided for in this section would result in a
9471 lower maximum penalty than the penalty provided for under the section that
9472 describes the offense for which the person is being sentenced.
- 9473 Section 141. Section **76-3-203.12** is amended to read:
9474 **76-3-203.12 . Enhanced penalty for sexual offenses committed by a person with**
9475 **Human Immunodeficiency Virus, Acquired Immunodeficiency Virus, hepatitis**

9476 **B, or hepatitis C.**

9477 (1) A person convicted of a sexual offense described in Chapter 5, Part 4, Sexual Offenses,
9478 not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, is subject to an
9479 enhanced penalty if at the time of the sexual offense the person was infected with
9480 Human Immunodeficiency Virus, Acquired Immunodeficiency Virus, hepatitis B, or
9481 hepatitis C and the person knew of the infection.

9482 (2)(a) Except as provided in Subsection (2)(b), the enhancement of a penalty described
9483 in Subsection (1) shall be an enhancement of one classification higher than the root
9484 offense for which the person was convicted.

9485 (b) A felony of the first degree is not enhanced under this section.

9486 Section 142. Section **76-3-209** is amended to read:

9487 **76-3-209 . Limitation on sentencing for crimes committed by juveniles.**

9488 [~~(1) As used in this section, "qualifying sexual offense" means:]~~

9489 [~~(a) an offense described in Chapter 5, Part 4, Sexual Offenses;~~]

9490 [~~(b) Section 76-9-702, lewdness;~~]

9491 [~~(c) Section 76-9-702.1, sexual battery; or~~]

9492 [~~(d) Section 76-9-702.5, lewdness involving a child.]~~

9493 (1) As used in this section, "qualifying sexual offense" means an offense described in
9494 Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417.

9495 (2)(a) This Subsection (2) only applies prospectively to an individual sentenced on or
9496 after May 10, 2016.

9497 (b) Notwithstanding any provision of law, an individual may not be sentenced to life
9498 without parole if:

9499 (i) the individual is convicted of a crime punishable by life without parole; and

9500 (ii) at the time the individual committed the crime, the individual was under 18 years
9501 old.

9502 (c) The maximum punishment that may be imposed on an individual described in
9503 Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that
9504 may be for life.

9505 (3) Except as provided in Subsection (4), if an individual is convicted in district court of a
9506 qualifying sexual offense and, at the time of the offense, the individual was at least 14

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- 9507 years old, but under 18 years old:
- 9508 (a) the district court shall impose a sentence consistent with the disposition that would
- 9509 have been made in juvenile court; and
- 9510 (b) the district court may not impose incarceration unless the court enters specific
- 9511 written findings that incarceration is warranted based on a totality of the
- 9512 circumstances, taking into account:
- 9513 (i) the time that elapsed after the individual committed the offense;
- 9514 (ii) the age of the individual at the time of the offense;
- 9515 (iii) the age of the victim at the time of the offense;
- 9516 (iv) the criminal history of the individual after the individual committed the offense;
- 9517 (v) any treatment assessments or validated risk tools; and
- 9518 (vi) public safety concerns.
- 9519 (4) Subsection (3) does not apply if:
- 9520 (a) before the individual described in Subsection (3) is convicted of the qualifying
- 9521 sexual offense, the individual is convicted of a qualifying sexual offense that the
- 9522 individual committed when the individual was 18 years old or older;
- 9523 (b) the individual is convicted in district court, before the victim is 18 years old, of a
- 9524 violation of Section 76-5-405, aggravated sexual assault; or
- 9525 (c) the conviction occurred in district court after the individual was:
- 9526 (i) charged by criminal information in the juvenile court for the qualifying sexual
- 9527 offense in accordance with Section 80-6-503; and
- 9528 (ii) bound over to the district court for the qualifying sexual offense in accordance
- 9529 with Section 80-6-504.
- 9530 (5) If the district court imposes incarceration under Subsection (3)(b), the term of
- 9531 incarceration may not exceed:
- 9532 (a) seven years for a violation of Section 76-5-405, aggravated sexual assault;
- 9533 (b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter
- 9534 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-419, or 76-5-420; or
- 9535 (c) the maximum sentence described in Section 76-3-204 for[;]
- 9536 [(+)] a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses, not including
- 9537 Section 76-5-417[;] .

- 9538 [~~(ii) a violation of Section 76-9-702, lewdness;~~]
- 9539 [~~(iii) a violation of Section 76-9-702.1, sexual battery; or~~]
- 9540 [~~(iv) a violation of Section 76-9-702.5, lewdness involving a child.~~]

9541 Section 143. Section **76-3-402** is amended to read:

9542 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**

9543 (1) As used in this section:

9544 (a) "Lower degree of offense" includes an offense for which:

- 9545 (i) a statutory enhancement is charged in the information or indictment that would
- 9546 increase either the maximum or the minimum sentence; and
- 9547 (ii) the court removes the statutory enhancement in accordance with this section.

9548 (b) "Minor regulatory offense" means the same as that term is defined in Section

9549 77-40a-101.

9550 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic

9551 and recidivism risks.

9552 (ii) "Rehabilitation program" includes:

9553 (A) a domestic violence treatment program, as that term is defined in Section

9554 26B-2-101;

9555 (B) a residential, vocational, and life skills program, as that term is defined in

9556 Section 13-53-102;

9557 (C) a substance abuse treatment program, as that term is defined in Section

9558 26B-2-101;

9559 (D) a substance use disorder treatment program, as that term is defined in Section

9560 26B-2-101;

9561 (E) a youth program, as that term is defined in Section 26B-2-101;

9562 (F) a program that meets the standards established by the Department of

9563 Corrections under Section 64-13-25;

9564 (G) a drug court, a veterans court, or a mental health court certified by the Judicial

9565 Council; or

9566 (H) a program that is substantially similar to a program described in Subsections

9567 (1)(c)(ii)(A) through (G).

9568 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor

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- 9569 regulatory offense or a traffic offense.
- 9570 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 9571 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
- 9572 that term is defined in Section 76-3-203.5.
- 9573 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
- 9574 conspiracy to commit an offense, for:
- 9575 [~~(A) the possession, use, or removal of explosive, chemical, or incendiary devices~~
- 9576 ~~under Subsection 76-10-306(3), (5), or (6); or]~~
- 9577 [~~(B)~~ (A) the purchase or possession of a dangerous weapon or handgun by a
- 9578 restricted person under Section ~~[76-10-503]~~ 76-11-302.
- 9579 (B) unlawful conduct involving an explosive, chemical, or incendiary device
- 9580 under Subsection 76-15-210(2)(a);
- 9581 (C) unlawful conduct involving an explosive, chemical, or incendiary part under
- 9582 Section 76-15-211;
- 9583 (2) The court may enter a judgment of conviction for a lower degree of offense than
- 9584 established by statute and impose a sentence at the time of sentencing for the lower
- 9585 degree of offense if the court:
- 9586 (a) takes into account:
- 9587 (i) the nature and circumstances of the offense of which the defendant was found
- 9588 guilty; and
- 9589 (ii) the history and character of the defendant;
- 9590 (b) gives any victim present at the sentencing and the prosecuting attorney an
- 9591 opportunity to be heard; and
- 9592 (c) concludes that the degree of offense established by statute would be unduly harsh to
- 9593 record as a conviction on the record for the defendant.
- 9594 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 9595 judgment of conviction for a lower degree of offense than established by statute:
- 9596 (a) after the defendant is successfully discharged from probation or parole for the
- 9597 conviction; and
- 9598 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
- 9599 is in the interest of justice in accordance with Subsection (7).

- 9600 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
9601 judgment of conviction for a lower degree of offense than established by statute if:
- 9602 (a) the defendant's probation or parole for the conviction did not result in a successful
9603 discharge but the defendant is successfully discharged from probation or parole for a
9604 subsequent conviction of an offense;
 - 9605 (b)(i) at least five years have passed after the day on which the defendant is
9606 sentenced for the subsequent conviction; or
 - 9607 (ii) at least three years have passed after the day on which the defendant is sentenced
9608 for the subsequent conviction and the prosecuting attorney consents to the
9609 reduction;
 - 9610 (c) the defendant is not convicted of a serious offense during the time period described
9611 in Subsection (4)(b);
 - 9612 (d) there are no criminal proceedings pending against the defendant;
 - 9613 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
9614 offense;
 - 9615 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
9616 attorney consents to the reduction; and
 - 9617 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
9618 in the interest of justice in accordance with Subsection (7).
- 9619 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
9620 judgment of conviction for a lower degree of offense than established by statute if:
- 9621 (a) the defendant's probation or parole for the conviction did not result in a successful
9622 discharge but the defendant is successfully discharged from a rehabilitation program;
 - 9623 (b) at least three years have passed after the day on which the defendant is successfully
9624 discharged from the rehabilitation program;
 - 9625 (c) the defendant is not convicted of a serious offense during the time period described
9626 in Subsection (5)(b);
 - 9627 (d) there are no criminal proceedings pending against the defendant;
 - 9628 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
9629 offense;
 - 9630 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting

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- 9631 attorney consents to the reduction; and
- 9632 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 9633 in the interest of justice in accordance with Subsection (7).
- 9634 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 9635 judgment of conviction for a lower degree of offense than established by statute if:
- 9636 (a) at least five years have passed after the day on which the defendant's probation or
- 9637 parole for the conviction did not result in a successful discharge;
- 9638 (b) the defendant is not convicted of a serious offense during the time period described
- 9639 in Subsection (6)(a);
- 9640 (c) there are no criminal proceedings pending against the defendant;
- 9641 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
- 9642 offense;
- 9643 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 9644 attorney consents to the reduction; and
- 9645 (f) the court finds that entering a judgment of conviction for a lower degree of offense is
- 9646 in the interest of justice in accordance with Subsection (7).
- 9647 (7) In determining whether entering a judgment of a conviction for a lower degree of
- 9648 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 9649 (a) the court shall consider:
- 9650 (i) the nature, circumstances, and severity of the offense for which a reduction is
- 9651 sought;
- 9652 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 9653 offense for which the reduction is sought; and
- 9654 (iii) any input from a victim of the offense; and
- 9655 (b) the court may consider:
- 9656 (i) any special characteristics or circumstances of the defendant, including the
- 9657 defendant's criminogenic risks and needs;
- 9658 (ii) the defendant's criminal history;
- 9659 (iii) the defendant's employment and community service history;
- 9660 (iv) whether the defendant participated in a rehabilitative program and successfully
- 9661 completed the program;

- 9662 (v) any effect that a reduction would have on the defendant's ability to obtain or
9663 reapply for a professional license from the Department of Commerce;
- 9664 (vi) whether the level of the offense has been reduced by law after the defendant's
9665 conviction;
- 9666 (vii) any potential impact that the reduction would have on public safety; or
9667 (viii) any other circumstances that are reasonably related to the defendant or the
9668 offense for which the reduction is sought.
- 9669 (8)(a) A court may only enter a judgment of conviction for a lower degree of offense
9670 under Subsection (3), (4), (5), or (6) after:
- 9671 (i) notice is provided to the other party;
9672 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
9673 to any victims; and
9674 (iii) a hearing is held if a hearing is requested by either party.
- 9675 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
9676 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
9677 or (6).
- 9678 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
9679 motion, the moving party has the burden to provide evidence sufficient to
9680 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 9681 (d) If a defendant files a motion under this section, the prosecuting attorney shall
9682 respond to the motion within 35 days after the day on which the motion is filed with
9683 the court.
- 9684 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
9685 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
9686 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 9687 (10)(a) An offense may be reduced only one degree under this section, unless the
9688 prosecuting attorney specifically agrees in writing or on the court record that the
9689 offense may be reduced two degrees.
- 9690 (b) An offense may not be reduced under this section by more than two degrees.
- 9691 (11) This section does not preclude an individual from obtaining or being granted an
9692 expungement of the individual's record in accordance with Title 44, Chapter 40A,

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9693 Expungement of Criminal Records.

9694 (12) The court may not enter a judgment for a conviction for a lower degree of offense
9695 under this section if:

9696 (a) the reduction is specifically precluded by law; or

9697 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
9698 reduction is sought.

9699 (13) When the court enters a judgment for a lower degree of offense under this section, the
9700 actual title of the offense for which the reduction is made may not be altered.

9701 (14)(a) An individual may not obtain a reduction under this section of a conviction that
9702 requires the individual to register as a sex offender, kidnap offender, or child abuse
9703 offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap,
9704 and Child Abuse Offender Registry, have expired.

9705 (b) An individual required to register as a sex offender, kidnap offender, or child abuse
9706 offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be
9707 granted a reduction of the conviction for the offense or offenses that require the
9708 individual to register as a sex offender, kidnap offender, or child abuse offender.

9709 Section 144. Section **76-3-407** is amended to read:

9710 **76-3-407 . Repeat and habitual sex offenders -- Additional prison term for prior**
9711 **felony convictions.**

9712 (1) As used in this section:

9713 (a) "Prior sexual offense" means:

9714 (i) a felony offense described in Chapter 5, Part 4, Sexual Offenses, not including
9715 Section 76-5-419 or 76-5-410;

9716 (ii) sexual exploitation of a minor, Section 76-5b-201;

9717 (iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

9718 [~~(iv)~~ a felony offense of enticing a minor, Section ~~76-4-401;~~]

9719 [~~(v)~~] (iv) a felony attempt to commit an offense described in Subsections (1)(a)(i)
9720 through [~~(iv)~~] (iii); or

9721 [~~(vi)~~] (v) an offense in another state, territory, or district of the United States that, if
9722 committed in Utah, would constitute an offense described in Subsections (1)(a)(i)
9723 through [~~(v)~~] (iv).

- 9724 (b) "Sexual offense" means:
- 9725 (i) an offense that is a felony of the second or third degree, or an attempted offense,
- 9726 which attempt is a felony of the second or third degree, described in Chapter 5,
- 9727 Part 4, Sexual Offenses, not including Section 76-5-419 or 76-5-410;
- 9728 (ii) sexual exploitation of a minor, Section 76-5b-201;
- 9729 (iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 9730 [~~(iv) a felony offense of enticing a minor, Section 76-4-401;~~]
- 9731 [~~(v)~~] (iv) a felony attempt to commit an offense described in Subsections (1)(b)(ii)
- 9732 through [~~(iv)~~] (iii); or
- 9733 [~~(vi)~~] (v) an offense in another state, territory, or district of the United States that, if
- 9734 committed in Utah, would constitute an offense described in Subsections (1)(b)(i)
- 9735 through [~~(v)~~] (iv).
- 9736 (2) Notwithstanding any other provision of law, the maximum penalty for a sexual offense
- 9737 is increased by five years for each conviction of the defendant for a prior sexual offense
- 9738 that arose from a separate criminal episode, if the trier of fact finds that:
- 9739 (a) the defendant was convicted of a prior sexual offense; and
- 9740 (b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a)
- 9741 before the defendant was convicted of the sexual offense for which the defendant is
- 9742 being sentenced.
- 9743 (3) The increased maximum term described in Subsection (2) shall be in addition to, and
- 9744 consecutive to, any other prison term served by the defendant.
- 9745 Section 145. Section **76-4-102** is amended to read:
- 9746 **76-4-102 . Attempt -- Classification of offenses.**
- 9747 (1) Criminal attempt to commit:
- 9748 (a)(i) a capital felony, or a felony punishable by imprisonment for life without
- 9749 parole, is a first degree felony;
- 9750 (ii) except as provided in Subsection (2), an attempt to commit aggravated murder,
- 9751 Section 76-5-202, which results in serious bodily injury, is punishable by
- 9752 imprisonment for an indeterminate term of not fewer than 15 years and which may
- 9753 be for life;
- 9754 (b) except as provided in Subsection (1)(c) or (d), a first degree felony is a second

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- 9755 degree felony;
- 9756 (c) any of the following offenses is a first degree felony punishable by imprisonment for
9757 an indeterminate term of not fewer than three years and which may be for life:
- 9758 (i) murder, Subsection 76-5-203(2)(a);
- 9759 (ii) child kidnapping, Section 76-5-301.1; or
- 9760 (iii) except as provided in Subsection (1)(d), any of the felonies described in Title 76,
9761 Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417, that are first
9762 degree felonies;
- 9763 (d) except as provided in Subsection (3), any of the following offenses is a first degree
9764 felony, punishable by a term of imprisonment of not less than 15 years and which
9765 may be for life:
- 9766 (i) rape of a child, Section 76-5-402.1;
- 9767 (ii) object rape of a child, Section 76-5-402.3; or
- 9768 (iii) sodomy on a child, Section 76-5-403.1;
- 9769 (e) a second degree felony is a third degree felony;
- 9770 (f) a third degree felony is a class A misdemeanor;
- 9771 (g) a class A misdemeanor is a class B misdemeanor;
- 9772 (h) a class B misdemeanor is a class C misdemeanor; and
- 9773 (i) a class C misdemeanor is punishable by a penalty not exceeding one half the penalty
9774 for a class C misdemeanor.
- 9775 (2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term
9776 than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court
9777 states the reasons for this finding on the record, the court may impose a term of
9778 imprisonment of not less than:
- 9779 (a) 10 years and which may be for life; or
- 9780 (b) six years and which may be for life.
- 9781 (3) If, when imposing a sentence under Subsection (1)(d), a court finds that a lesser term
9782 than the term described in Subsection (1)(d) is in the interests of justice and states the
9783 reasons for this finding on the record, the court may impose a term of imprisonment of
9784 not less than:
- 9785 (a) 10 years and which may be for life;

9786 (b) six years and which may be for life; or

9787 (c) three years and which may be for life.

9788 Section 146. Section **76-4-202** is amended to read:

9789 **76-4-202 . Conspiracy -- Classification of offenses.**

9790 Conspiracy to commit:

9791 (1) a capital felony is a first degree felony;

9792 (2) a first degree felony is a second degree felony; except that conspiracy to commit child
9793 kidnaping, in violation of Section 76-5-301.1 or to commit any of those felonies
9794 described in Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417,
9795 which are first degree felonies, is a first degree felony punishable by imprisonment for
9796 an indeterminate term of not less than three years and which may be for life;

9797 (3) a second degree felony is a third degree felony;

9798 (4) a third degree felony is a class A misdemeanor;

9799 (5) a class A misdemeanor is a class B misdemeanor;

9800 (6) a class B misdemeanor is a class C misdemeanor;

9801 (7) A class C misdemeanor is punishable by a penalty not exceeding one half the penalty
9802 for a class C misdemeanor.

9803 Section 147. Section **76-4-203** is amended to read:

9804 **76-4-203 . Criminal solicitation of an adult.**

9805 (1)(a) As used in this section:

9806 (i) "Adult" means an individual who is 18 years old or older.

9807 (ii) "Solicit" means to ask, command, encourage, importune, offer to hire, or request.

9808 (b) Terms defined in Section 76-1-101.5 apply to this section.

9809 (2) An actor commits criminal solicitation of an adult if, with the intent that a felony
9810 offense be committed, the actor solicits an adult to engage in specific conduct that, under
9811 the circumstances as the actor believes the circumstances to be, would be a felony
9812 offense or would cause the adult to be a party to the commission of a felony offense.

9813 (3) A violation of Subsection (2) where the actor solicits the adult to commit:

9814 (a) a capital felony, or a felony punishable by imprisonment for life without parole, is a
9815 first degree felony;

9816 (b) except as provided in Subsection (3)(c) or (d), a first degree felony is a second

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- 9817 degree felony;
- 9818 (c) any of the following felony offenses is a first degree felony punishable by
- 9819 imprisonment for an indeterminate term of not fewer than three years and which may
- 9820 be for life:
- 9821 (i) murder, as described in Subsection 76-5-203(2)(a);
- 9822 (ii) child kidnapping, as described in Section 76-5-301.1; or
- 9823 (iii) except as provided in Subsection (3)(d), an offense described in Title 76, Chapter
- 9824 5, Part 4, Sexual Offenses, not including Section 76-5-417, that is a first degree
- 9825 felony;
- 9826 (d) except as provided in Subsection (4), any of the following felony offenses is a first
- 9827 degree felony punishable by a term of imprisonment of not less than 15 years and
- 9828 which may be for life:
- 9829 (i) rape of a child, Section 76-5-402.1;
- 9830 (ii) object rape of a child, Section 76-5-402.3; or
- 9831 (iii) sodomy on a child, Section 76-5-403.1;
- 9832 (e) a second degree felony is a third degree felony; and
- 9833 (f) a third degree felony is a class A misdemeanor.
- 9834 (4) If a court finds that a lesser term than the term described in Subsection (3)(d) is in the
- 9835 interests of justice and states the reasons for this finding on the record, the court may
- 9836 impose a term of imprisonment of not less than:
- 9837 (a) 10 years and which may be for life;
- 9838 (b) six years and which may be for life; or
- 9839 (c) three years and which may be for life.
- 9840 (5) An actor may be convicted under this section only if the solicitation is made under
- 9841 circumstances strongly corroborative of the actor's intent that the offense be committed.
- 9842 (6) It is not a defense to a violation of this section that:
- 9843 (a) the adult solicited by the actor:
- 9844 (i) does not agree to act upon the solicitation;
- 9845 (ii) does not commit an overt act;
- 9846 (iii) does not engage in conduct constituting a substantial step toward the commission
- 9847 of any offense;

- 9848 (iv) is not criminally responsible for the felony offense solicited;
- 9849 (v) was acquitted, was not prosecuted or convicted, or was convicted of a different
- 9850 offense or of a different type or degree of offense; or
- 9851 (vi) is immune from prosecution; or
- 9852 (b) the actor:
 - 9853 (i) belongs to a class of persons that by definition is legally incapable of committing
 - 9854 the offense in an individual capacity; or
 - 9855 (ii) fails to communicate with the adult that the actor solicits to commit an offense if
 - 9856 the intent of the actor's conduct was to effect the communication.
- 9857 (7) Nothing in this section prevents an actor who otherwise solicits an adult to engage, or
- 9858 intentionally aids an adult in engaging, in conduct that constitutes an offense from being
- 9859 prosecuted and convicted as a party to the offense under Section 76-2-202 if the adult
- 9860 actually commits the offense.

9861 Section 148. Section **76-5-102.8** is amended to read:

9862 **76-5-102.8 . Disarming a peace officer -- Penalties.**

- 9863 (1)(a) As used in this section:
 - 9864 (i) "Conductive energy device" means a weapon that uses electrical current to disrupt
 - 9865 voluntary control of muscles.
 - 9866 (ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
 - 9867 76-11-101.
- 9868 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 9869 (2) An actor commits disarming a peace officer if the actor intentionally takes or removes,
- 9870 or attempts to take or remove a firearm or a conductive energy device from an individual
- 9871 or immediate presence of an individual who the actor knows is a peace officer:
 - 9872 (a) without the consent of the peace officer; and
 - 9873 (b) while the peace officer is acting within the scope of the peace officer's authority as a
 - 9874 peace officer.
- 9875 (3)(a) A violation of Subsection (2) regarding a firearm is a first degree felony.
- 9876 (b) A violation of Subsection (2) regarding a conductive energy device is a third degree
- 9877 felony.

9878 Section 149. Section **76-5-104** is amended to read:

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9879 **76-5-104 . Consensual altercation.**

9880 (1) As used in this section, "ultimate fighting match" means the same as that term is defined
9881 in Section [~~76-9-705~~] 76-9-112.

9882 (2) In any prosecution for criminal homicide under Part 2, Criminal Homicide, or assault as
9883 that offense is described in Section 76-5-102, it is no defense to the prosecution that the
9884 defendant was a party to any duel, mutual combat, or other consensual altercation if
9885 during the course of the duel, combat, or altercation:

9886 (a) any dangerous weapon was used; or

9887 (b) the defendant was engaged in an ultimate fighting match.

9888 Section 150. Section **76-5-106.5** is amended to read:

9889 **76-5-106.5 . Stalking -- Definitions -- Injunction -- Penalties -- Duties of law**
9890 **enforcement officer.**

9891 (1)(a) As used in this section:

9892 (i) "Course of conduct" means two or more acts directed at or toward a specific
9893 individual, including:

9894 (A) acts in which the actor follows, monitors, observes, photographs, surveils,
9895 threatens, or communicates to or about an individual, or interferes with an
9896 individual's property:

9897 (I) directly, indirectly, or through any third party; and

9898 (II) by any action, method, device, or means; or

9899 (B) when the actor engages in any of the following acts or causes someone else to
9900 engage in any of these acts:

9901 (I) approaches or confronts an individual;

9902 (II) appears at the individual's workplace or contacts the individual's employer
9903 or coworker;

9904 (III) appears at an individual's residence or contacts an individual's neighbor, or
9905 enters property owned, leased, or occupied by an individual;

9906 (IV) sends material by any means to the individual or for the purpose of
9907 obtaining or disseminating information about or communicating with the
9908 individual to a member of the individual's family or household, employer,
9909 coworker, friend, or associate of the individual;

- 9910 (V) places an object on or delivers an object to property owned, leased, or
9911 occupied by an individual, or to the individual's place of employment with
9912 the intent that the object be delivered to the individual; or
9913 (VI) uses a computer, the Internet, text messaging, or any other electronic
9914 means to commit an act that is a part of the course of conduct.
- 9915 (ii)(A) "Emotional distress" means significant mental or psychological suffering,
9916 whether or not medical or other professional treatment or counseling is
9917 required.
- 9918 (B) "Emotional distress" includes significant mental or psychological suffering
9919 resulting from harm to an animal.
- 9920 (iii) "Immediate family" means a spouse, parent, child, sibling, or any other
9921 individual who regularly resides in the household or who regularly resided in the
9922 household within the prior six months.
- 9923 (iv) "Private investigator" means the same as that term is defined in Section [76-9-408]
9924 76-12-305.
- 9925 (v) "Reasonable person" means a reasonable person in the victim's circumstances.
- 9926 (vi) "Stalking" means an offense as described in Subsection (2).
- 9927 (vii) "Text messaging" means a communication in the form of electronic text or one
9928 or more electronic images sent by the actor from a telephone or computer to
9929 another individual's telephone or computer by addressing the communication to
9930 the recipient's telephone number.
- 9931 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 9932 (2) An actor commits stalking if the actor intentionally or knowingly:
- 9933 (a) engages in a course of conduct directed at a specific individual and knows or is
9934 reckless as to whether the course of conduct would cause a reasonable person:
- 9935 (i) to fear for the individual's own safety or the safety of a third individual; or
9936 (ii) to suffer other emotional distress; or
- 9937 (b) violates:
- 9938 (i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking
9939 Injunctions; or
- 9940 (ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part

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9941 9, Criminal Stalking Injunctions.

9942 (3)(a) A violation of Subsection (2) is a class A misdemeanor:

9943 (i) upon the actor's first violation of Subsection (2); or

9944 (ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part
9945 7, Civil Stalking Injunctions.

9946 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree
9947 felony if the actor:

9948 (i) has been previously convicted of an offense of stalking;

9949 (ii) has been previously convicted in another jurisdiction of an offense that is
9950 substantially similar to the offense of stalking;

9951 (iii) has been previously convicted of any felony offense in Utah or of any crime in
9952 another jurisdiction which if committed in Utah would be a felony, in which the
9953 victim of the stalking offense or a member of the victim's immediate family was
9954 also a victim of the previous felony offense;

9955 (iv) violated a permanent criminal stalking injunction issued under Title 78B,
9956 Chapter 7, Part 9, Criminal Stalking Injunctions; or

9957 (v) has been or is at the time of the offense a cohabitant, as defined in Section
9958 78B-7-102, of the victim.

9959 (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second
9960 degree felony if the actor:

9961 (i) used a dangerous weapon or used other means or force likely to produce death or
9962 serious bodily injury, in the commission of the crime of stalking;

9963 (ii) has been previously convicted two or more times of the offense of stalking;

9964 (iii) has been convicted two or more times in another jurisdiction or jurisdictions of
9965 offenses that are substantially similar to the offense of stalking;

9966 (iv) has been convicted two or more times, in any combination, of offenses under
9967 Subsection (3)(b)(i), (ii), or (iii);

9968 (v) has been previously convicted two or more times of felony offenses in Utah or of
9969 crimes in another jurisdiction or jurisdictions which, if committed in Utah, would
9970 be felonies, in which the victim of the stalking was also a victim of the previous
9971 felony offenses; or

- 9972 (vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).
- 9973 (4) In a prosecution under this section, it is not a defense that the actor:
- 9974 (a) was not given actual notice that the course of conduct was unwanted; or
- 9975 (b) did not intend to cause the victim fear or other emotional distress.
- 9976 (5) An offense of stalking may be prosecuted under this section in any jurisdiction where
- 9977 one or more of the acts that is part of the course of conduct was initiated or caused an
- 9978 effect on the victim.
- 9979 (6)(a) Except as provided in Subsection (6)(b), an actor does not violate this section if
- 9980 the actor is acting:
- 9981 (i) in the actor's official capacity as a law enforcement officer, governmental
- 9982 investigator, or private investigator; and
- 9983 (ii) for a legitimate official or business purpose.
- 9984 (b) A private investigator is not exempt from this section if the private investigator
- 9985 engages in conduct that would constitute a ground for disciplinary action under
- 9986 Section 53-9-118.
- 9987 (7)(a) A permanent criminal stalking injunction limiting the contact between the actor
- 9988 and victim may be filed in accordance with Section 78B-7-902.
- 9989 (b) This section does not preclude the filing of criminal information for stalking based
- 9990 on the same act which is the basis for the violation of the stalking injunction issued
- 9991 under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent
- 9992 criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal
- 9993 Stalking Injunctions.
- 9994 (8)(a) A law enforcement officer who responds to an allegation of stalking shall use all
- 9995 reasonable means to protect the victim and prevent further violence, including:
- 9996 (i) taking action that, in the officer's discretion, is reasonably necessary to provide for
- 9997 the safety of the victim and any family or household member;
- 9998 (ii) confiscating the weapon or weapons involved in the alleged stalking;
- 9999 (iii) making arrangements for the victim and any child to obtain emergency housing
- 10000 or shelter;
- 10001 (iv) providing protection while the victim removes essential personal effects;
- 10002 (v) arranging, facilitating, or providing for the victim and any child to obtain medical

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- 10003 treatment; and
- 10004 (vi) arranging, facilitating, or providing the victim with immediate and adequate
- 10005 notice of the rights of victims and of the remedies and services available to
- 10006 victims of stalking, in accordance with Subsection (8)(b).
- 10007 (b)(i) A law enforcement officer shall give written notice to the victim in simple
- 10008 language, describing the rights and remedies available under this section and Title
- 10009 78B, Chapter 7, Part 7, Civil Stalking Injunctions.
- 10010 (ii) The written notice shall also include:
- 10011 (A) a statement that the forms needed in order to obtain a stalking injunction are
- 10012 available from the court clerk's office in the judicial district where the victim
- 10013 resides or is temporarily domiciled; and
- 10014 (B) a list of shelters, services, and resources available in the appropriate
- 10015 community, together with telephone numbers, to assist the victim in accessing
- 10016 any needed assistance.
- 10017 (c) If a weapon is confiscated under this Subsection (8), the law enforcement agency
- 10018 shall return the weapon to the individual from whom the weapon is confiscated if a
- 10019 stalking injunction is not issued or once the stalking injunction is terminated.
- 10020 Section 151. Section **76-5-107** is amended to read:
- 10021 **76-5-107 . Threat of violence.**
- 10022 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 10023 (2) An actor commits a threat of violence if the actor:
- 10024 (a)(i) threatens to commit an offense:
- 10025 (A) under Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section
- 10026 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or
- 10027 (B) involving bodily injury, death, or substantial property damage; and
- 10028 (ii) acts with intent to place an individual in fear:
- 10029 (A) that the actor will imminently commit an offense under Title 76, Chapter 5,
- 10030 Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419,
- 10031 or 76-5-420, against the individual; or
- 10032 (B) of imminent serious bodily injury, substantial bodily injury, or death; or
- 10033 (b) makes a threat, accompanied by a show of immediate force or violence, to do bodily

10034 injury to an individual.
10035 (3)(a) A violation of Subsection (2) is a class B misdemeanor.
10036 (b) An actor who commits an offense under this section is subject to punishment for that
10037 offense, in addition to any other offense committed, including the carrying out of the
10038 threatened act.

10039 (4) It is not a defense under this section that the actor did not attempt to or was incapable of
10040 carrying out the threat.

10041 (5) A threat under Subsection (2) may be express or implied.

10042 Section 152. Section **76-5-107.1** is amended to read:

10043 **76-5-107.1 . Threats against schools.**

10044 (1)(a) As used in this section:

10045 (i) "Hoax weapon of mass destruction" means the same as that term is defined in
10046 Section ~~[76-10-401]~~ 76-15-301.

10047 (ii) "School" means a preschool or a public or private elementary or secondary school.

10048 (b) Terms defined in Section 76-1-101.5 apply to this section.

10049 (2) An actor is guilty of making a threat against a school if the actor threatens, with real
10050 intent or as an intentional hoax, to commit an offense involving bodily injury, death, or
10051 substantial property damage and the actor:

10052 (a) threatens the use of a firearm or weapon or hoax weapon of mass destruction;

10053 (b) acts with intent to:

10054 (i) disrupt the regular schedule of the school or influence or affect the conduct of
10055 students, employees, or the general public at the school;

10056 (ii) prevent or interrupt the occupancy of the school or a portion of the school, or a
10057 facility or vehicle used by the school; or

10058 (iii) intimidate or coerce students or employees of the school; or

10059 (c) causes an official or volunteer agency organized to deal with emergencies to take
10060 action due to the risk to the school or general public.

10061 (3)(a)(i) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a third degree felony.

10062 (ii) A violation of Subsection (2)(b)(ii) is a class A misdemeanor.

10063 (iii) A violation of Subsection (2)(c) is a class B misdemeanor.

10064 (b)(i) In addition to another penalty authorized by law, a court shall order an actor

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10065 convicted under this section to pay restitution to a federal, state, or local unit of
10066 government, or a private business, organization, individual, or entity for expenses
10067 and losses incurred in responding to the threat, unless the court states on the
10068 record the reasons why the reimbursement would be inappropriate.

10069 (ii) Restitution ordered in the case of a minor adjudicated for a violation of this
10070 section shall be determined in accordance with Section 80-6-710.

10071 (4) It is not a defense to this section that the actor did not attempt to carry out the threat or
10072 was incapable of carrying out the threat.

10073 (5) A violation of this section shall be reported to the local law enforcement agency.

10074 (6) Counseling for a minor alleged to have violated this section and the minor's family may
10075 be made available through state and local health department programs.

10076 Section 153. Section **76-5-107.3** is amended to read:

10077 **76-5-107.3 . Threat of terrorism -- Penalty.**

10078 (1)(a) As used in this section:

10079 (i) "Hoax weapon of mass destruction" means the same as that term is defined in
10080 Section [~~76-10-401~~] 76-15-301.

10081 (ii) "Weapon of mass destruction" means the same as that term is defined in Section [
10082 ~~76-10-401~~] 76-15-301.

10083 (b) Terms defined in Section 76-1-101.5 apply to this section.

10084 (2)(a) An actor commits a threat of terrorism if the actor threatens to commit an offense
10085 involving bodily injury, death, or substantial property damage and the actor:

10086 (i)(A) threatens the use of a weapon of mass destruction; or

10087 (B) threatens the use of a hoax weapon of mass destruction; or

10088 (ii) acts with intent to:

10089 (A) intimidate or coerce a civilian population or to influence or affect the conduct
10090 of a government or a unit of government;

10091 (B) prevent or interrupt the occupation of a building or a portion of the building, a
10092 place to which the public has access, or a facility or vehicle of public
10093 transportation operated by a common carrier; or

10094 (C) cause an official or volunteer agency organized to deal with emergencies to
10095 take action due to the actor's conduct posing a serious and substantial risk to

- 10096 the general public.
- 10097 (b) A threat under this section may be express or implied.
- 10098 (3)(a)(i) A violation of Subsection (2)(a)(i) or (2)(a)(ii)(A) is a second degree felony.
- 10099 (ii) A violation of Subsection (2)(a)(ii)(B) is a third degree felony.
- 10100 (iii) A violation of Subsection (2)(a)(ii)(C) is a class B misdemeanor.
- 10101 (b) An actor who commits an offense under this section is subject to punishment for that
- 10102 offense, in addition to any other offense committed, including the carrying out of the
- 10103 threatened act.
- 10104 (c) In addition to any other penalty authorized by law, a court shall order an actor
- 10105 convicted of a violation of this section to reimburse any federal, state, or local unit of
- 10106 government, or any private business, organization, individual, or entity for all
- 10107 expenses and losses incurred in responding to the violation, unless the court states on
- 10108 the record the reasons why the reimbursement would be inappropriate.
- 10109 (4) It is not a defense under this section that the actor did not attempt to carry out or was
- 10110 incapable of carrying out the threat.

10111 Section 154. Section **76-5-109.3** is amended to read:

10112 **76-5-109.3 . Child abandonment.**

- 10113 (1)(a) As used in this section:
- 10114 (i) "Child" means the same as that term is defined in Section 76-5-109.
- 10115 (ii) "Enterprise" means the same as that term is defined in Section [76-10-1602]
- 10116 76-17-401.
- 10117 (iii) "Serious physical injury" means the same as that term is defined in Section
- 10118 76-5-109.
- 10119 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 10120 (2)(a) Except as provided in Subsection (4), an actor commits child abandonment if the
- 10121 actor:
- 10122 (i) is a parent or legal guardian of a child, and:
- 10123 (A) intentionally ceases to maintain physical custody of the child;
- 10124 (B) intentionally fails to make reasonable arrangements for the safety, care, and
- 10125 physical custody of the child; and
- 10126 (C)(I) intentionally fails to provide the child with food, shelter, or clothing;

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- 10127 (II) manifests an intent to permanently not resume physical custody of the
10128 child; or
- 10129 (III) for a period of at least 30 days, intentionally fails to resume physical
10130 custody of the child and fails to manifest a genuine intent to resume
10131 physical custody of the child; or
- 10132 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection
10133 (2)(a)(i).
- 10134 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if
10135 the enterprise encourages, commands, induces by misrepresentation, or causes
10136 another to violate Subsection (2)(a).
- 10137 (3)(a)(i) A violation of Subsection (2) is a third degree felony.
- 10138 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second
10139 degree felony if, as a result of the child abandonment:
- 10140 (A) the child suffers a serious physical injury; or
- 10141 (B) the actor or enterprise receives, directly or indirectly, any benefit.
- 10142 (b)(i) In addition to the penalty described in Subsection (3)(a)(ii), the court may
10143 order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs
10144 of investigating and prosecuting the offense and the costs of securing any
10145 forfeiture provided for under Subsection (3)(b)(ii).
- 10146 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is
10147 subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture
10148 of Seized Property.
- 10149 (4)(a) A parent or legal guardian who provides a child with treatment by spiritual means
10150 alone through prayer, in lieu of medical treatment, in accordance with the tenets and
10151 practices of an established church or religious denomination of which the parent or
10152 legal guardian is a member or adherent may not, for that reason alone, be considered
10153 to have committed an offense under this section.
- 10154 (b) An actor is not guilty of an offense under this section for conduct that constitutes:
- 10155 (i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;
- 10156 (ii) giving legal consent to a court order for termination of parental rights:
- 10157 (A) in a legal adoption proceeding; or

- 10158 (B) in a case in which a petition for the termination of parental rights, or the
10159 termination of a guardianship, has been filed;
10160 (iii) reasonable discipline or management of a child, including withholding
10161 privileges; or
10162 (iv) conduct described in Section 76-2-401.
10163 (c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed
10164 child abandonment due to:
10165 (i) intimidation;
10166 (ii) isolation;
10167 (iii) harassment;
10168 (iv) coercion;
10169 (v) the actor's reasonable fear of bodily harm; or
10170 (vi) the reasonable actions of the actor to protect the safety and welfare of the actor or
10171 another individual.

10172 Section 155. Section **76-5-115**, which is renumbered from Section 76-10-2202 is renumbered
10173 and amended to read:

10174 **~~76-10-2202~~76-5-115 . Leaving a child unattended in a motor vehicle.**

10175 (1)(a) As used in this section:

10176 ~~[(a)]~~ (i) "Child" means ~~[a person]~~ an individual who is younger than nine years old.

10177 ~~[(b)]~~ (ii) "Enclosed compartment" means any enclosed area of a motor vehicle,
10178 including the passenger compartment, regardless of whether a door, window, or
10179 hatch is left open.

10180 ~~[(c)]~~ (iii) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other
10181 self-propelled vehicle.

10182 (b) Terms defined in Section 76-1-101.5 apply to this section.

10183 (2) ~~[A person who is responsible for a child is guilty of a class C misdemeanor]~~ An actor
10184 commits leaving a child unattended in a motor vehicle if:

10185 (a) the ~~[person]~~ actor intentionally, ~~[recklessly,]~~ knowingly, recklessly, or with criminal
10186 negligence leaves ~~[the]~~ a child in an enclosed compartment of a motor vehicle;

10187 (b) the motor vehicle is on:

10188 (i) public property; or

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- 10189 (ii) private property that is open to the general public;
- 10190 (c) the child is not supervised by [~~a person~~] an individual who is at least nine years old;
- 10191 and
- 10192 (d) the conditions present a risk to the child of:
- 10193 (i) hyperthermia;
- 10194 (ii) hypothermia; or
- 10195 (iii) dehydration. (3) This section does not apply if the person's conduct that constitutes a
- 10196 violation of this section is subject to a greater penalty under another provision of state
- 10197 law.

10198 (4) A violation of Subsection (2) is a class C misdemeanor.

10199 [~~(4)~~] (5) This section preempts enforcement of a local law or ordinance that makes it an

10200 infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor

10201 under this section.

10202 [~~(5)~~] (6) Notwithstanding any provision of state law to the contrary, a conviction under this

10203 section may not be used by a state or local government entity as grounds for revoking,

10204 refusing to grant, or refusing to renew, a license or permit, including a license or permit

10205 relating to the provision of day care or child care.

10206 Section 156. Section **76-5-202** is amended to read:

10207 **76-5-202 . Aggravated murder -- Penalties -- Affirmative defense and special**

10208 **mitigation -- Separate offense.**

10209 (1)(a) As used in this section:

- 10210 (i) "Correctional officer" means the same as that term is defined in Section 53-13-104.
- 10211 (ii) "Emergency responder" means the same as that term is defined in Section
- 10212 53-2b-102.
- 10213 (iii) "Federal officer" means the same as that term is defined in Section 53-13-106.
- 10214 (iv) "Law enforcement officer" means the same as that term is defined in Section
- 10215 53-13-103.
- 10216 (v) "Peace officer" means:
- 10217 (A) a correctional officer, federal officer, law enforcement officer, or special
- 10218 function officer; or
- 10219 (B) any other person who may exercise peace officer authority in accordance with

- 10220 Title 53, Chapter 13, Peace Officer Classifications.
- 10221 (vi) "Special function officer" means the same as that term is defined in Section
- 10222 53-13-105.
- 10223 (vii) "Target a law enforcement officer" means an act:
- 10224 (A) involving the unlawful use of force and violence against a law enforcement
- 10225 officer;
- 10226 (B) that causes serious bodily injury or death; and
- 10227 (C) that is in furtherance of political or social objectives in order to intimidate or
- 10228 coerce a civilian population or to influence or affect the conduct of a
- 10229 government or a unit of government.
- 10230 (viii) "Weapon of mass destruction" means the same as that term is defined in Section [
- 10231 ~~76-10-401~~] 76-15-301.
- 10232 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 10233 (2)(a) An actor commits aggravated murder if the actor intentionally or knowingly
- 10234 causes the death of another individual under any of the following circumstances:
- 10235 (i) the actor committed homicide while confined in a jail or other correctional
- 10236 institution;
- 10237 (ii)(A) the actor committed homicide incident to one act, scheme, course of
- 10238 conduct, or criminal episode during which two or more individuals other than
- 10239 the actor were killed; or
- 10240 (B) the actor, during commission of the homicide, attempted to kill one or more
- 10241 other individuals in addition to the deceased individual;
- 10242 (iii) the actor knowingly created a great risk of death to another individual other than
- 10243 the deceased individual and the actor;
- 10244 (iv) the actor committed homicide incident to an act, scheme, course of conduct, or
- 10245 criminal episode during which the actor committed or attempted to commit
- 10246 aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a
- 10247 child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse
- 10248 of a child, aggravated sexual abuse of a child, aggravated child abuse as described
- 10249 in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson,
- 10250 arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or

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- 10251 child kidnapping;
- 10252 (v) the actor committed homicide incident to one act, scheme, course of conduct, or
- 10253 criminal episode during which the actor committed the crime of abuse or
- 10254 desecration of a dead human body as described in Subsection [~~76-9-704(2)(e)~~]
- 10255 76-5-802(2)(d);
- 10256 (vi) the actor committed homicide for the purpose of avoiding or preventing an arrest
- 10257 of the actor or another individual by a peace officer acting under color of legal
- 10258 authority or for the purpose of effecting the actor's or another individual's escape
- 10259 from lawful custody;
- 10260 (vii) the actor committed homicide for pecuniary gain;
- 10261 (viii) the actor committed, engaged, or employed another person to commit the
- 10262 homicide subject to an agreement or contract for remuneration or the promise of
- 10263 remuneration for commission of the homicide;
- 10264 (ix) the actor previously committed or was convicted of:
- 10265 (A) aggravated murder under this section;
- 10266 (B) attempted aggravated murder under this section;
- 10267 (C) murder, under Section 76-5-203;
- 10268 (D) attempted murder, under Section 76-5-203; or
- 10269 (E) an offense committed in another jurisdiction which if committed in this state
- 10270 would be a violation of a crime listed in this Subsection (2)(a)(ix);
- 10271 (x) the actor was previously convicted of:
- 10272 (A) aggravated assault, under Section 76-5-103;
- 10273 (B) mayhem, under Section 76-5-105;
- 10274 (C) kidnapping, under Section 76-5-301;
- 10275 (D) child kidnapping, under Section 76-5-301.1;
- 10276 (E) aggravated kidnapping, under Section 76-5-302;
- 10277 (F) rape, under Section 76-5-402;
- 10278 (G) rape of a child, under Section 76-5-402.1;
- 10279 (H) object rape, under Section 76-5-402.2;
- 10280 (I) object rape of a child, under Section 76-5-402.3;
- 10281 (J) forcible sodomy, under Section 76-5-403;

- 10282 (K) sodomy on a child, under Section 76-5-403.1;
- 10283 (L) aggravated sexual abuse of a child, under Section 76-5-404.3;
- 10284 (M) aggravated sexual assault, under Section 76-5-405;
- 10285 (N) aggravated arson, under Section 76-6-103;
- 10286 (O) aggravated burglary, under Section 76-6-203;
- 10287 (P) aggravated robbery, under Section 76-6-302;
- 10288 (Q) felony discharge of a firearm, under Section [~~76-10-508.1~~] 76-11-208; or
- 10289 (R) an offense committed in another jurisdiction which if committed in this state
- 10290 would be a violation of a crime listed in this Subsection (2)(a)(x);
- 10291 (xi) the actor committed homicide for the purpose of:
 - 10292 (A) preventing a witness from testifying;
 - 10293 (B) preventing a person from providing evidence or participating in any legal
 - 10294 proceedings or official investigation;
 - 10295 (C) retaliating against a person for testifying, providing evidence, or participating
 - 10296 in any legal proceedings or official investigation; or
 - 10297 (D) disrupting or hindering any lawful governmental function or enforcement of
 - 10298 laws;
- 10299 (xii) the deceased individual was a local, state, or federal public official, or a
- 10300 candidate for public office, and the homicide is based on, is caused by, or is
- 10301 related to that official position, act, capacity, or candidacy;
- 10302 (xiii) the deceased individual was on duty in a verified position or the homicide is
- 10303 based on, is caused by, or is related to the deceased individual's position, and the
- 10304 actor knew, or reasonably should have known, that the deceased individual holds
- 10305 or has held the position of:
 - 10306 (A) a peace officer;
 - 10307 (B) an executive officer, prosecuting officer, jailer, or prison official;
 - 10308 (C) a firefighter, search and rescue personnel, emergency medical personnel,
 - 10309 ambulance personnel, or any other emergency responder;
 - 10310 (D) a judge or other court official, juror, probation officer, or parole officer; or
 - 10311 (E) a security officer contracted to secure, guard, or otherwise protect tangible
 - 10312 personal property, real property, or the life and well-being of human or animal

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- 10313 life in the area of the offense;
- 10314 (xiv) the actor committed homicide:
- 10315 (A) by means of a destructive device, bomb, explosive, incendiary device, or
- 10316 similar device which was planted, hidden, or concealed in any place, area,
- 10317 dwelling, building, or structure, or was mailed or delivered;
- 10318 (B) by means of any weapon of mass destruction; or
- 10319 (C) to target a law enforcement officer;
- 10320 (xv) the actor committed homicide during the act of unlawfully assuming control of
- 10321 an aircraft, train, or other public conveyance by use of threats or force with intent
- 10322 to:
- 10323 (A) obtain any valuable consideration for the release of the public conveyance or
- 10324 any passenger, crew member, or any other person aboard;
- 10325 (B) direct the route or movement of the public conveyance; or
- 10326 (C) otherwise exert control over the public conveyance;
- 10327 (xvi) the actor committed homicide by means of the administration of a poison or of
- 10328 any lethal substance or of any substance administered in a lethal amount, dosage,
- 10329 or quantity;
- 10330 (xvii) the deceased individual was held or otherwise detained as a shield, hostage, or
- 10331 for ransom;
- 10332 (xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or
- 10333 exceptionally depraved manner, any of which must be demonstrated by physical
- 10334 torture, serious physical abuse, or serious bodily injury of the deceased individual
- 10335 before death;
- 10336 (xix) the actor dismembers, mutilates, or disfigures the deceased individual's body,
- 10337 whether before or after death, in a manner demonstrating the actor's depravity of
- 10338 mind; or
- 10339 (xx) the deceased individual, at the time of the death of the deceased individual:
- 10340 (A) was younger than 14 years old; and
- 10341 (B) was not an unborn child.
- 10342 (b) An actor commits aggravated murder if the actor, with reckless indifference to
- 10343 human life, causes the death of another individual incident to an act, scheme, course

- 10344 of conduct, or criminal episode during which the actor is a major participant in the
10345 commission or attempted commission of:
- 10346 (i) aggravated child abuse, punishable as a felony of the second degree under
10347 Subsection 76-5-109.2(3)(a);
 - 10348 (ii) child kidnapping, under Section 76-5-301.1;
 - 10349 (iii) rape of a child, under Section 76-5-402.1;
 - 10350 (iv) object rape of a child, under Section 76-5-402.3;
 - 10351 (v) sodomy on a child, under Section 76-5-403.1; or
 - 10352 (vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.
- 10353 (3)(a) If a notice of intent to seek the death penalty has been filed, a violation of
10354 Subsection (2) is a capital felony.
- 10355 (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is
10356 a noncapital first degree felony punishable as provided in Section 76-3-207.7.
- 10357 (c)(i) Within 60 days after arraignment of the defendant, the prosecutor may file
10358 notice of intent to seek the death penalty.
- 10359 (ii) The notice shall be served on the defendant or defense counsel and filed with the
10360 court.
- 10361 (iii) Notice of intent to seek the death penalty may be served and filed more than 60
10362 days after the arraignment upon written stipulation of the parties or upon a finding
10363 by the court of good cause.
- 10364 (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to
10365 noncapital first degree felony aggravated murder during the period in which the
10366 prosecutor may file a notice of intent to seek the death penalty under Subsection
10367 (3)(c)(i).
- 10368 (e) If the defendant was younger than 18 years old at the time the offense was
10369 committed, aggravated murder is a noncapital first degree felony punishable as
10370 provided in Section 76-3-207.7.
- 10371 (f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
10372 aggravated murder, or alternatively, attempted aggravated murder, as described in
10373 this section, are proved beyond a reasonable doubt, and also finds that the existence
10374 of special mitigation is established by a preponderance of the evidence and in

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10375 accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as
10376 follows:

10377 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall
10378 enter a judgment of conviction for murder; or

10379 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the
10380 court shall enter a judgment of conviction for attempted murder.

10381 (4)(a) It is an affirmative defense to a charge of aggravated murder or attempted
10382 aggravated murder that the actor caused the death of another or attempted to cause
10383 the death of another under a reasonable belief that the circumstances provided a legal
10384 justification or excuse for the conduct although the conduct was not legally justifiable
10385 or excusable under the existing circumstances.

10386 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
10387 the viewpoint of a reasonable person under the then existing circumstances.

10388 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
10389 aggravated murder, or alternatively, attempted aggravated murder, as described in
10390 this section, are proved beyond a reasonable doubt, and also finds the affirmative
10391 defense described in this Subsection (4) is not disproven beyond a reasonable doubt,
10392 the court shall enter a judgment of conviction as follows:

10393 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall
10394 enter a judgment of conviction for murder; or

10395 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the
10396 court shall enter a judgment of conviction for attempted murder.

10397 (5)(a) Any aggravating circumstance described in Subsection (2) that constitutes a
10398 separate offense does not merge with the crime of aggravated murder.

10399 (b) An actor who is convicted of aggravated murder, based on an aggravating
10400 circumstance described in Subsection (2) that constitutes a separate offense, may also
10401 be convicted of, and punished for, the separate offense.

10402 Section 157. Section **76-5-203** is amended to read:

10403 **76-5-203 . Murder -- Penalties-- Affirmative defense and special mitigation --**
10404 **Separate offenses.**

10405 (1)(a) As used in this section, "predicate offense" means:

- 10406 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
- 10407 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused
- 10408 individual is younger than 18 years old;
- 10409 (iii) kidnapping under Section 76-5-301;
- 10410 (iv) child kidnapping under Section 76-5-301.1;
- 10411 (v) aggravated kidnapping under Section 76-5-302;
- 10412 (vi) rape under Section 76-5-402;
- 10413 (vii) rape of a child under Section 76-5-402.1;
- 10414 (viii) object rape under Section 76-5-402.2;
- 10415 (ix) object rape of a child under Section 76-5-402.3;
- 10416 (x) forcible sodomy under Section 76-5-403;
- 10417 (xi) sodomy upon a child under Section 76-5-403.1;
- 10418 (xii) forcible sexual abuse under Section 76-5-404;
- 10419 (xiii) sexual abuse of a child under Section 76-5-404.1;
- 10420 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
- 10421 (xv) aggravated sexual assault under Section 76-5-405;
- 10422 (xvi) arson under Section 76-6-102;
- 10423 (xvii) aggravated arson under Section 76-6-103;
- 10424 (xviii) burglary under Section 76-6-202;
- 10425 (xix) aggravated burglary under Section 76-6-203;
- 10426 (xx) robbery under Section 76-6-301;
- 10427 (xxi) aggravated robbery under Section 76-6-302;
- 10428 (xxii) escape under Section 76-8-309;
- 10429 (xxiii) aggravated escape under Section 76-8-309.3; or
- 10430 (xxiv) a felony violation of Section [~~76-10-508 or 76-10-508.1~~] 76-11-207 or
- 10431 76-11-208 regarding discharge of a firearm or dangerous weapon.
- 10432 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 10433 (2) An actor commits murder if:
- 10434 (a) the actor intentionally or knowingly causes the death of another individual;
- 10435 (b) intending to cause serious bodily injury to another individual, the actor commits an
- 10436 act clearly dangerous to human life that causes the death of the other individual;

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- 10437 (c) acting under circumstances evidencing a depraved indifference to human life, the
10438 actor knowingly engages in conduct that creates a grave risk of death to another
10439 individual and thereby causes the death of the other individual;
- 10440 (d)(i) the actor is engaged in the commission, attempted commission, or immediate
10441 flight from the commission or attempted commission of any predicate offense, or
10442 is a party to the predicate offense;
- 10443 (ii) an individual other than a party described in Section 76-2-202 is killed in the
10444 course of the commission, attempted commission, or immediate flight from the
10445 commission or attempted commission of any predicate offense; and
- 10446 (iii) the actor acted with the intent required as an element of the predicate offense;
- 10447 (e) the actor recklessly causes the death of a peace officer or military service member in
10448 uniform while in the commission or attempted commission of:
- 10449 (i) an assault against a peace officer under Section 76-5-102.4;
- 10450 (ii) interference with a peace officer while making a lawful arrest under Section
10451 76-8-305 if the actor uses force against the peace officer; or
- 10452 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
- 10453 or
- 10454 (f) the actor commits a homicide that would be aggravated murder, but the offense is
10455 reduced in accordance with Subsection 76-5-202(4).
- 10456 (3)(a)(i) A violation of Subsection (2) is a first degree felony.
- 10457 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for
10458 an indeterminate term of not less than 15 years and which may be for life.
- 10459 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
10460 or alternatively, attempted murder, as described in this section are proved beyond a
10461 reasonable doubt, and also finds that the existence of special mitigation is established
10462 by a preponderance of the evidence and in accordance with Section 76-5-205.5, the
10463 court shall enter a judgment of conviction as follows:
- 10464 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
10465 judgment of conviction for manslaughter; or
- 10466 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,
10467 notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment

10468 of conviction for attempted manslaughter.

10469 (4)(a) It is an affirmative defense to a charge of murder or attempted murder that the
10470 defendant caused the death of another individual or attempted to cause the death of
10471 another individual under a reasonable belief that the circumstances provided a legal
10472 justification or excuse for the conduct although the conduct was not legally justifiable
10473 or excusable under the existing circumstances.

10474 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
10475 the viewpoint of a reasonable person under the then existing circumstances.

10476 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or
10477 alternatively, attempted murder, as described in this section are proved beyond a
10478 reasonable doubt, and also finds the affirmative defense described in this Subsection
10479 (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of
10480 conviction as follows:

10481 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
10482 judgment of conviction for manslaughter; or

10483 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall
10484 enter a judgment of conviction for attempted manslaughter.

10485 (5)(a) Any predicate offense that constitutes a separate offense does not merge with the
10486 crime of murder.

10487 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a
10488 separate offense, may also be convicted of, and punished for, the separate offense.

10489 Section 158. Section **76-5-302** is amended to read:

10490 **76-5-302 . Aggravated kidnapping.**

10491 (1)(a) As used in this section, "in the course of committing unlawful detention or
10492 kidnapping" means in the course of committing, attempting to commit, or in the
10493 immediate flight after the attempt or commission of a violation of:

10494 (i) Section 76-5-301, kidnapping; or

10495 (ii) Section 76-5-304, unlawful detention.

10496 (b) Terms defined in Section 76-1-101.5 apply to this section.

10497 (2) An actor commits aggravated kidnapping if the actor, in the course of committing
10498 unlawful detention or kidnapping:

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- 10499 (a) uses or threatens to use a dangerous weapon; or
10500 (b) acts with the intent to:
10501 (i) hold the victim for ransom or reward, as a shield or hostage, or to compel a third
10502 person to engage in particular conduct or to forbear from engaging in particular
10503 conduct;
10504 (ii) facilitate the commission, attempted commission, or flight after commission or
10505 attempted commission of a felony;
10506 (iii) hinder or delay the discovery of or reporting of a felony;
10507 (iv) inflict bodily injury on or to terrorize the victim or another individual;
10508 (v) interfere with the performance of any governmental or political function; or
10509 (vi) commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual
10510 Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
10511 (3)(a) A violation of Subsection (2) in the course of committing unlawful detention is a
10512 third degree felony.
10513 (b) A violation of Subsection (2) in the course of committing kidnapping is a first degree
10514 felony.
10515 (4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to
10516 imprisonment of:
10517 (a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and
10518 which may be for life;
10519 (b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact
10520 finds that during the course of the commission of the aggravated kidnapping the
10521 defendant caused serious bodily injury to the victim or another individual; or
10522 (c) life without parole, if the trier of fact finds that at the time of the commission of the
10523 aggravated kidnapping, the defendant was previously convicted of a grievous sexual
10524 offense.
10525 (5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser
10526 term than the term described in Subsection (4)(a) or (b) is in the interests of justice and
10527 states the reasons for this finding on the record, the court may impose a term of
10528 imprisonment of not less than:
10529 (a) for purposes of Subsection (4)(b), 15 years and which may be for life; or

- 10530 (b) for purposes of Subsection (4)(a) or (b):
- 10531 (i) 10 years and which may be for life; or
- 10532 (ii) six years and which may be for life.
- 10533 (6) The provisions of Subsection (5) do not apply when a defendant is sentenced under
- 10534 Subsection (4)(c).
- 10535 (7) Subsections (4)(b) and (c) do not apply if the actor was younger than 18 years old at the
- 10536 time of the offense.
- 10537 (8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.
- 10538 Section 159. Section **76-5-415** is amended to read:
- 10539 **76-5-415 . Educator's license subject to action for violation of this part.**
- 10540 Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses,
- 10541 not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, by an educator as
- 10542 defined in Section 53E-6-102, is grounds under Section 53E-6-604 for disciplinary
- 10543 action against the educator, including revocation of the educator's license.
- 10544 Section 160. Section **76-5-417**, which is renumbered from Section 76-4-401 is renumbered
- 10545 and amended to read:
- 10546 **[76-4-401] 76-5-417 . Enticing a minor to engage in sexual activity.**
- 10547 (1)(a) As used in this section:
- 10548 (i) "Minor" means an individual who is under 18 years old.
- 10549 (ii) "Electronic communication" means the same as that term is defined in Section [
- 10550 ~~76-9-201~~] 76-12-201.
- 10551 (iii) "Electronic communication device" means the same as that term is defined in
- 10552 Section [~~76-9-201~~] 76-12-201.
- 10553 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 10554 (2) An actor commits [~~entice~~ ~~ment of~~] enticing a minor to engage in sexual activity if the
- 10555 actor knowingly:
- 10556 (a) uses an electronic communication or an electronic communication device to:
- 10557 (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or
- 10558 entice a minor, or another person that the actor believes to be a minor, to engage
- 10559 in sexual activity that is a violation of state criminal law; or
- 10560 (ii)(A) initiate contact with a minor or a person the actor believes to be a minor;

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10561 and
10562 (B) subsequent to the action described in Subsection (2)(a)(ii)(A), by any
10563 electronic or written means, solicits, seduces, lures, or entices, or attempts to
10564 solicit, seduce, lure, or entice the minor or a person the actor believes to be the
10565 minor to engage in sexual activity that is a violation of state criminal law; or
10566 (b) develops a relationship of trust with the minor or the minor's parent or guardian with
10567 the intent to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice
10568 the minor to engage in sexual activity that is a violation of state criminal law.
10569 [~~(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt~~
10570 ~~to commit this offense, that a law enforcement officer or an undercover operative who is~~
10571 ~~employed by a law enforcement agency was involved in the detection or investigation of~~
10572 ~~the offense.]
10573 [~~(4)~~ (3) ~~[Enticement of a minor under]~~ A violation of Subsection (2) is punishable as
10574 follows:
10575 (a) enticement to engage in sexual activity that would be a first degree felony for the
10576 actor is a:
10577 (i) second degree felony upon the first conviction for violation of this Subsection [
10578 ~~(4)(a)~~ (3)(a); and
10579 (ii) first degree felony punishable by imprisonment for an indeterminate term of not
10580 fewer than three years and which may be for life, upon a second or any subsequent
10581 conviction for a violation of this Subsection [~~(4)(a)~~ (3)(a);
10582 (b) enticement to engage in sexual activity that would be a second degree felony for the
10583 actor is a third degree felony;
10584 (c) enticement to engage in sexual activity that would be a third degree felony for the
10585 actor is a class A misdemeanor;
10586 (d) enticement to engage in sexual activity that would be a class A misdemeanor for the
10587 actor is a class B misdemeanor; and
10588 (e) enticement to engage in sexual activity that would be a class B misdemeanor for the
10589 actor is a class C misdemeanor.
10590 (4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law
10591 enforcement officer or an undercover operative who is employed by a law enforcement~~

- 10592 agency was involved in the detection or investigation of the offense.
- 10593 (5)(a) When an actor who commits a felony violation of this section has [~~been-~~]
- 10594 previously been convicted of an offense [~~under~~] described in Subsection (5)(b), the
- 10595 court may not in any way shorten the prison sentence, and the court may not:
- 10596 (i) grant probation;
- 10597 (ii) suspend the execution or imposition of the sentence;
- 10598 (iii) enter a judgment for a lower category of offense; or
- 10599 (iv) order hospitalization.
- 10600 (b) The sections referred to in Subsection (5)(a) are:
- 10601 [~~(i) Section 76-4-401, enticing a minor;~~]
- 10602 [~~(ii)~~] (i) [~~Section 76-5-301.1,~~] child kidnapping as described in Section 76-5-301.1;
- 10603 (ii) human trafficking of a child as described in Section 76-5-308.5
- 10604 (iii) [~~Section 76-5-402,~~] rape as described in Section 76-5-402;
- 10605 (iv) [~~Section 76-5-402.1,~~] rape of a child as described in Section 76-5-402.1;
- 10606 (v) [~~Section 76-5-402.2,~~] object rape as described in Section 76-5-402.2;
- 10607 (vi) [~~Section 76-5-402.3,~~] object rape of a child as described in Section 76-5-402.3;
- 10608 (vii) [~~Section 76-5-403,~~] forcible sodomy as described in Section 76-5-403;
- 10609 (viii) [~~Section 76-5-403.1,~~] sodomy on a child as described in Section 76-5-403.1;
- 10610 (ix) [~~Section 76-5-404,~~] forcible sexual abuse as described in Section 76-5-404;
- 10611 (x) [~~Section 76-5-404.1,~~] sexual abuse of a child as described in Section 76-5-404.1.;
- 10612 (xi) [~~and Section 76-5-404.3,~~] aggravated sexual abuse of a child as described in
- 10613 Section 76-5-404.3;
- 10614 [~~(xi)~~] (xii) [~~Section 76-5-405,~~] aggravated sexual assault as described in Section
- 10615 76-5-405;
- 10616 [(xii) Section 76-5-308.5, human trafficking of a child;]
- 10617 (xiii) enticing a minor to engage in sexual activity as described in Section 76-5-417;
- 10618 [~~(xiii)~~] (xiv) any offense in any other state or federal jurisdiction that constitutes or
- 10619 would constitute a crime in Subsections (5)(b)(i) through [~~(xii)~~] (xiii); or
- 10620 [~~(xiv)~~] (xv) the attempt, solicitation, or conspiracy to commit any of the offenses in
- 10621 Subsections (5)(b)(i) through [~~(xiii)~~] (xiv).
- 10622 Section 161. Section **76-5-418**, which is renumbered from Section 76-9-702.1 is renumbered

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10623 and amended to read:

10624 ~~[76-9-702.1]~~ **76-5-418 . Sexual battery.**

10625 (1) Terms defined in Section 76-1-101.5 apply to this section.

10626 (2) An actor ~~[is guilty of]~~ commits sexual battery if ~~[the actor]~~, under circumstances not
10627 amounting to an offense ~~[under]~~ described in Subsection ~~[(2)]~~ (4), the actor:

10628 (a) ~~[-]~~intentionally touches, whether or not through clothing~~[-]~~ ;

10629 (i) the anus, buttocks, or any part of the genitals of another individual~~[-]~~ ; or

10630 (ii) ~~[-]~~the breast of a female individual~~[-]~~ ; and

10631 (b) ~~[-]~~the actor's conduct is under circumstances that the actor knows or should know
10632 will likely cause affront or alarm to the individual touched.

10633 ~~[(2)]~~ (3) A violation of Subsection (2) is a class A misdemeanor.

10634 (4) ~~[Offenses]~~ The offenses referred to in Subsection ~~[(1)]~~ (2) are:

10635 (a) rape under Section 76-5-402;

10636 (b) rape of a child under Section 76-5-402.1;

10637 (c) object rape under Section 76-5-402.2;

10638 (d) object rape of a child under Section 76-5-402.3;

10639 (e) forcible sodomy under Subsection 76-5-403(2);

10640 (f) sodomy on a child under Section 76-5-403.1;

10641 (g) forcible sexual abuse under Section 76-5-404;

10642 (h) sexual abuse of a child under Section 76-5-404.1;

10643 (i) aggravated sexual abuse of a child under Section 76-5-404.3;

10644 (j) aggravated sexual assault under Section 76-5-405; and

10645 (k) an attempt to commit an offense under this Subsection (2).

10646 ~~[(3) Sexual battery is a class A misdemeanor.]~~

10647 ~~[(4)]~~ (5)(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo
10648 contendere to a charge under this section that is held in abeyance under Title 77,
10649 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

10650 (b) This Subsection ~~[(4)]~~ (5) also applies if the charge under this section has been
10651 subsequently reduced or dismissed in accordance with the plea in abeyance
10652 agreement.

10653 Section 162. Section **76-5-419**, which is renumbered from Section 76-9-702 is renumbered

10654 and amended to read:

10655 ~~[76-9-702]~~ 76-5-419 . Lewdness.

10656 (1)(a) As used in this section:

10657 (i) "Common area of a privacy space" means any area of a privacy space other than:

10658 (A) a toilet stall with a closed door;

10659 (B) immediately in front of a urinal during use; or

10660 (C) a shower stall with a closed door or other closed covering.

10661 (ii) "Privacy space" means the same as that term is defined in Section 76-12-309.

10662 (iii) "Sex-designated" means the same as that term is defined in Section 76-12-309.

10663 (b) Terms defined in Section 76-1-101.5 apply to this section.

10664 ~~[(1)]~~ (2) [A person is guilty of] Under circumstances not amounting to an offense listed in

10665 Subsection (4), an actor commits lewdness if~~[the person under circumstances not~~

10666 ~~amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated~~

10667 ~~sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or~~

10668 ~~17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual~~

10669 ~~misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving~~

10670 ~~state services under Section 76-5-413, custodial sexual misconduct with youth receiving~~

10671 ~~state services under Section 76-5-413.2, or an attempt to commit any of these offenses;~~

10672 ~~performs any of the following acts in a public place or under circumstances which the~~

10673 ~~person should know will likely cause affront or alarm to, on, or in the presence of~~

10674 ~~another individual who is 14 years old or older]:~~

10675 (a) the actor performs:

10676 (i) an act of sexual intercourse or sodomy;

10677 ~~[(b)]~~ (ii) an act~~[exposes his or her]~~ exposing the actor's:

10678 (A) genitals~~[-]~~ ;

10679 (B) ~~[the-]~~female breast below the top of the areola if the actor is female~~[-]~~ ;

10680 (C) ~~[the-]~~buttocks, ~~[the-]~~anus, or ~~[the-]~~pubic area;

10681 ~~[(e)]~~ (iii) masturbates; or

10682 ~~[(d)]~~ (iv) any other act of lewdness~~[-]~~ ; and

10683 (b) an action described in Subsection (2)(a) is undertaken:

10684 (i) in a public place; or

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10685 (ii) under circumstances which the actor should know will likely cause affront or
10686 alarm to, on, or in the presence of another individual who is 14 years old or older.
10687 [~~(2)~~] (3)(a) [~~A person convicted the first or second time of a~~] Except as provided in
10688 Subsection (3)(b), a violation of Subsection [(1)] (2) is [guilty of] a class B
10689 misdemeanor[~~, except under Subsection (2)(b)].~~
10690 (b) [~~A person convicted of a~~] A violation of Subsection [(1)] (2) is [guilty of] a third
10691 degree felony if at the time of the violation:
10692 (i) the [~~person~~] actor is a sex offender as defined in Section 77-27-21.7;
10693 (ii) the [~~person~~] actor has [~~been~~] previously been convicted two or more times of [
10694 violating] a violation of Subsection [(1)]; (2);
10695 (iii) the [~~person~~] actor has previously been convicted of:
10696 (A) [~~-~~] a violation of Subsection [(1)] (2); and
10697 (B) [~~has also previously been convicted of~~] a violation of Section [76-9-702.5]
10698 76-5-420;
10699 (iv) the [~~person commits the offense of lewdness while~~] actor also [~~committing~~]
10700 commits the offense of:
10701 (A) criminal trespass [in a] resulting from unlawfully entering a sex-designated
10702 changing room [under] as described in Subsection 76-6-206(2)(d);
10703 (B) lewdness involving a child [under] as described in Section [76-9-702.5]
10704 76-5-420;
10705 (C) voyeurism [under] as described in Section [76-9-702.7] 76-12-306;
10706 (D) recorded or photographed voyeurism as described in Section 76-12-307;
10707 (E) distribution of images obtained through voyeurism as described in Section
10708 76-12-308; or
10709 [~~(D)~~] (F) loitering in a privacy space [under] as described in Section [76-9-702.8]
10710 76-12-309; or
10711 (v) the [~~person commits the offense of lewdness~~] actor is in a sex-designated privacy
10712 space,~~[as defined in Section 76-9-702.8,]~~ that is not designated for individuals of
10713 the actor's sex.
10714 [~~(c)~~](i) For purposes of this Subsection (2) and Subsection 77-41-102(19), a plea of
10715 guilty or nolo contendere to a charge under this section that is held in abeyance under

10716 Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.]
10717 [(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been
10718 subsequently reduced or dismissed in accordance with the plea in abeyance
10719 agreement.]

- 10720 (4) The offenses referred to in Subsection (2) are:
- 10721 (a) unlawful sexual conduct with a 16- or 17-year-old as described in Section 76-5-401.2;
 - 10722 (b) rape as described in Section 76-5-402;
 - 10723 (c) object rape as described in Section 76-5-402.2;
 - 10724 (d) forcible sodomy as described in Section 76-5-403;
 - 10725 (e) forcible sexual abuse as described in Section 76-5-404;
 - 10726 (f) sexual abuse of a child as described in Section 76-5-404.1;
 - 10727 (g) aggravated sexual assault as described in Section 76-5-405;
 - 10728 (h) custodial sexual relations as described in Section 76-5-412;
 - 10729 (i) custodial sexual misconduct as described in Section 76-5-412.2;
 - 10730 (j) custodial sexual relations with youth receiving state services as described in Section
10731 76-5-413;
 - 10732 (k) custodial sexual misconduct with youth receiving state services as described in
10733 Section 76-5-413.2; or
 - 10734 (l) an attempt to commit an offense described in Subsection (4)(a) through (o).

10735 (5)(a) For purposes of Subsection (3) and Subsection 77-41-102(19), a plea of guilty or
10736 nolo contendere to a charge under this section that is held in abeyance under Title 77,
10737 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

10738 (b) Subsection (5)(a) also applies if the charge under Subsection (3) has been
10739 subsequently reduced or dismissed in accordance with the plea in abeyance
10740 agreement.

10741 [(3)] (6) [(a) ~~As used in this Subsection (3):~~]

10742 [(i) ~~"Common area of a privacy space" means any area of a privacy space other than:~~]

10743 [(A) ~~a toilet stall with a closed door;~~]

10744 [(B) ~~immediately in front of a urinal during use; or~~]

10745 [(C) ~~a shower stall with a closed door or other closed covering.~~]

10746 [(ii) ~~"Privacy space" means the same as that term is defined in Section 76-9-702.8.~~]

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10747 ~~[(b)]~~ (a) The common area of a privacy space constitutes a public place or circumstance
10748 described in Subsection ~~[(1)]~~ (2) where an act or an attempted act described in
10749 Subsection ~~[(1)]~~ (2) constitutes lewdness.

10750 ~~[(e)]~~ (b) Within the common area of a dressing room, fitting room, locker room,
10751 changing facility, or any other space designated for multiple individuals to dress or
10752 undress within the same space, exposing, displaying, or otherwise uncovering
10753 genitalia that does not correspond with the sex designation of the changing room
10754 constitutes an act or an attempted act described in Subsection ~~[(1)]~~ (2) that constitutes
10755 lewdness.

10756 ~~[(4)]~~ (7) A woman's breast feeding, including breast feeding in any location where the
10757 woman otherwise may rightfully be, does not under any circumstance constitute a lewd
10758 act, irrespective of whether or not the breast is covered during or incidental to feeding.

10759 Section 163. Section **76-5-420**, which is renumbered from Section 76-9-702.5 is renumbered
10760 and amended to read:

10761 ~~[76-9-702.5]~~ **76-5-420 . Lewdness involving a child.**

10762 (1)(a) As used in this section:

10763 ~~[(a) "In the presence of" includes within visual contact through an electronic device.]~~

10764 (i) "Child" means an individual younger than 14 years old.

10765 ~~[(b)]~~ (ii) "Common area of a privacy space" means the same as that term is defined in
10766 Section ~~[76-9-702]~~ 76-5-419.

10767 (iii) "In the presence of" includes within visual contact through an electronic device.

10768 ~~[(e)]~~ (iv) "Privacy space" means the same as that term is defined in Section [
10769 ~~76-9-702.8]~~ 76-12-309.

10770 (v) "Sex-designated" means the same as that term is defined in Section 76-12-309.

10771 (b) Terms defined in Section 76-1-101.5 apply to this section.

10772 (2) ~~[A person is guilty of]~~ Under circumstances not amounting to an offense listed in
10773 Subsection (4), an actor commits lewdness involving a child if the [person under
10774 circumstances not amounting to rape of a child, object rape of a child, sodomy upon a
10775 child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to
10776 commit any of those offenses,] actor intentionally or knowingly:

10777 (a) does any of the following in the presence of a child~~[who is under 14 years of age]:~~

- 10778 (i) performs an act of sexual intercourse or sodomy;
- 10779 (ii) exposes ~~[his or her]~~ the actor's genitals, the female breast below the top of the
- 10780 areola, the buttocks, the anus, or the pubic area:
- 10781 (A) in a public place; or
- 10782 (B) in a private place under circumstances the ~~[person]~~ actor should know will
- 10783 likely cause affront or alarm or with the intent to arouse or gratify the sexual
- 10784 desire of the actor or the child;
- 10785 (iii) masturbates; or
- 10786 (iv) performs any other act of lewdness; or
- 10787 (b) under circumstances not amounting to sexual exploitation of a ~~[child]~~ minor under
- 10788 Section 76-5b-201 or aggravated sexual exploitation of a ~~[child]~~ minor under Section
- 10789 76-5b-201.1, causes a child ~~[under the age of 14 years-]~~to expose ~~[his or her]~~ the
- 10790 child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or
- 10791 gratify the sexual desire of the actor or the child.
- 10792 (3)(a) ~~[Lewdness involving a child is-]~~ Except as provided in Subsection (3)(b), a
- 10793 violation of Subsection (2) is a class A misdemeanor~~[-except under Subsection (3)(b)].~~
- 10794 (b) ~~[Lewdness involving a child]~~ A violation of Subsection (2) is a third degree felony if
- 10795 at the time of the violation:
- 10796 (i) the ~~[person]~~ actor is a sex offender as defined in Section 77-27-21.7;
- 10797 (ii) the ~~[person]~~ actor has previously been convicted of a violation of ~~[this section]~~
- 10798 Subsection (2);
- 10799 (iii) the ~~[person]~~ actor commits ~~[the offense of lewdness involving a child while also~~
- 10800 ~~committing-]~~the offense of:
- 10801 (A) lewdness as described in Section 76-5-419;
- 10802 ~~[(A)]~~ (B) criminal trespass [in a] resulting from unlawfully entering a
- 10803 sex-designated changing room [under] as described in Subsection 76-6-206
- 10804 (2)(d);
- 10805 ~~[(B) lewdness under Section 76-9-702;]~~
- 10806 (C) voyeurism [under] as described in Section [76-9-702.7] 76-12-306;~~[-or]~~
- 10807 (D) recorded or photographed voyeurism as described in Section 76-12-307;
- 10808 (E) distribution of images obtained through voyeurism as described in Section

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10809 76-12-308; or
10810 [~~(D)~~] (F) loitering in a privacy space [under Section 76-9-702.8] as described in
10811 Section 76-12-309; or
10812 (iv) ~~[the person commits the offense of lewdness involving a child in a~~
10813 ~~sex-designated privacy space, as defined in Section 76-9-702.8, that is not~~
10814 ~~designated for individuals of the actor's sex] the actor is in a sex-designated~~
10815 ~~privacy space, that is not designated for individuals of the actor's sex.~~

10816 (4) The offenses referred to in Subsection (2) are:

- 10817 (a) rape of a child as described in Section 76-5-402.1;
- 10818 (b) object rape of a child as described in Section 76-5-402.3
- 10819 (c) sodomy on a child as described in Section 76-5-403.1;
- 10820 (d) sexual abuse of a child as described in Section 76-5-404.1;
- 10821 (e) aggravated sexual abuse of a child as described in Section 76-5-404.3; or
- 10822 (f) an attempt to commit an offense described in Subsection (4)(a) through (e).

10823 [~~(4)~~] (5)(a) The common area of a privacy space constitutes a public place or
10824 circumstance described in Subsection (2) where an act or an attempted act described
10825 in Subsection (2) constitutes [lewdness involving a child] a violation of Subsection (2).
10826 (b) Within the common area of a government entity's dressing room, fitting room, locker
10827 room, changing facility, or any other space designated for multiple individuals to
10828 dress or undress within the same space, exposing, displaying, or otherwise
10829 uncovering genitalia that does not correspond with the sex designation of the
10830 changing room constitutes an act or an attempted act described in Subsection (2) that
10831 constitutes lewdness involving a child.

10832 Section 164. Section **76-5-801** is enacted to read:

10833 **Part 8. Offenses Committed Against the Deceased**

10834 **76-5-801 . Definitions.**

10835 As used in this part, "ancient human remains" means the same as that term is
10836 defined in Section 9-8a-302.

10837 Section 165. Section **76-5-802**, which is renumbered from Section 76-9-704 is renumbered
10838 and amended to read:

10839 ~~[76-9-704]~~ **76-5-802 . Abuse or desecration of a dead human body.**

- 10840 (1) ~~[For purposes of this section, "dead human body" includes any part of a human body in~~
10841 ~~any stage of decomposition, including ancient human remains as defined in Section~~
10842 ~~9-8a-302.]~~
- 10843 (a) As used in this section, "sexual penetration" means the penetration, however slight,
10844 of the genital or anal opening by any object, substance, instrument, or device,
10845 including a part of the human body, or penetration involving the genitals of the actor
10846 and the mouth of a dead human body.
- 10847 (b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- 10848 (2) ~~[A person is guilty of-] An actor commits abuse or desecration of a dead human body if~~
10849 ~~the ~~[person]~~ actor intentionally and unlawfully:~~
- 10850 ~~[(a) fails to report the finding of a dead human body to a local law enforcement agency;]~~
10851 ~~[(b)] (a) disturbs, moves, removes, conceals, or destroys a dead human body or any part~~
10852 ~~of [it] the dead human body;~~
- 10853 ~~[(e)] (b) disinters a buried or otherwise interred dead human body, without authority of a~~
10854 ~~court order;~~
- 10855 ~~[(d)] (c) dismembers a dead human body to any extent, or damages or detaches any part~~
10856 ~~or portion of a dead human body; or~~
- 10857 ~~[(e)] (d)[(f)] commits or attempts to commit upon any dead human body any act of~~
10858 ~~sexual penetration, regardless of the sex of the actor and of the dead human body[;~~
10859 ~~and] .~~
- 10860 ~~[(ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however~~
10861 ~~slight, of the genital or anal opening by any object, substance, instrument, or~~
10862 ~~device, including a part of the human body, or penetration involving the genitals~~
10863 ~~of the actor and the mouth of the dead human body.]~~
- 10864 (3) A violation of Subsection (2) is a third degree felony.
- 10865 ~~[(3)] (4) ~~[A person]~~ An actor does not violate this section if when ~~[that person]~~ the actor~~
10866 ~~directs or carries out procedures regarding a dead human body, ~~[that person]~~ the actor~~
10867 ~~complies with:~~
- 10868 (a) Title 9, Chapter 8a, Part 3, Antiquities;
- 10869 (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
- 10870 (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

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- 10871 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;
10872 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
10873 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice
10874 medicine.
- 10875 [~~(4)(a) Failure to report the finding of a dead human body as required under Subsection~~
10876 ~~(2)(a) is a class B misdemeanor.~~]
10877 [~~(b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through~~
10878 ~~(e) is a third degree felony.~~]
- 10879 (5) For purposes of this section, a dead human body includes any part of a human body in
10880 any stage of decomposition, including ancient human remains.
- 10881 Section 166. Section **76-5-803** is enacted to read:
10882 **76-5-803 . Failure to report the finding of a dead human body.**
- 10883 (1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
10884 (2) An actor commits failure to report the finding of a dead human body if the actor:
10885 (a) finds a dead human body; and
10886 (b) intentionally fails to report the finding of the dead human body to a local law
10887 enforcement agency.
- 10888 (3) A violation of Subsection (2) is a class B misdemeanor.
- 10889 (4) An actor does not violate this section if when the actor directs or carries out procedures
10890 regarding a dead human body, the actor complies with:
10891 (a) Title 9, Chapter 8a, Part 3, Antiquities;
10892 (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
10893 (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
10894 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;
10895 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
10896 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice
10897 medicine.
- 10898 (5) For purposes of this section, a dead human body includes any part of a human body in
10899 any stage of decomposition, including ancient human remains.
- 10900 Section 167. Section **76-5b-201** is amended to read:
10901 **76-5b-201 . Sexual exploitation of a minor -- Offenses.**

- 10902 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 10903 (2) An actor commits sexual exploitation of a minor when the actor knowingly possesses or
10904 intentionally views child sexual abuse material.
- 10905 (3)(a) A violation of Subsection (2) is a second degree felony.
- 10906 (b) It is a separate offense under this section:
- 10907 (i) for each minor depicted in the child sexual abuse material; and
- 10908 (ii) for each time the same minor is depicted in different child sexual abuse material.
- 10909 (4) For a charge of violating this section, it is an affirmative defense that:
- 10910 (a) the defendant:
- 10911 (i) did not solicit the child sexual abuse material from the minor depicted in the child
10912 sexual abuse material;
- 10913 (ii) is not more than two years older than the minor depicted in the child sexual abuse
10914 material; and
- 10915 (iii) upon request of a law enforcement agent or the minor depicted in the child
10916 sexual abuse material, removes from an electronic device or destroys the child
10917 sexual abuse material and all copies of the child sexual abuse material in the
10918 defendant's possession; and
- 10919 (b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4,
10920 Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
- 10921 (5) In proving a violation of this section in relation to an identifiable minor, proof of the
10922 actual identity of the identifiable minor is not required.
- 10923 (6) The following are not criminally or civilly liable under this section when acting in good
10924 faith compliance with Section 77-4-201:
- 10925 (a) an entity or an employee, director, officer, or agent of an entity when acting within
10926 the scope of employment, for the good faith performance of:
- 10927 (i) reporting or data preservation duties required under federal or state law; or
- 10928 (ii) implementing a policy of attempting to prevent the presence of child sexual abuse
10929 material on tangible or intangible property, or of detecting and reporting the
10930 presence of child sexual abuse material on the property;
- 10931 (b) a law enforcement officer acting within the scope of a criminal investigation;
- 10932 (c) an employee of a court who may be required to view child sexual abuse material

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- 10933 during the course of and within the scope of the employee's employment;
- 10934 (d) a juror who may be required to view child sexual abuse material during the course of
- 10935 the individual's service as a juror;
- 10936 (e) an attorney or employee of an attorney who is required to view child sexual abuse
- 10937 material during the course of a judicial process and while acting within the scope of
- 10938 employment;
- 10939 (f) an employee of the Department of Health and Human Services who is required to
- 10940 view child sexual abuse material within the scope of the employee's employment; or
- 10941 (g) an attorney who is required to view child sexual abuse material within the scope of
- 10942 the attorney's responsibility to represent the Department of Health and Human
- 10943 Services, including the divisions and offices within the Department of Health and
- 10944 Human Services.

10945 Section 168. Section **76-5b-203** is amended to read:

10946 **76-5b-203 . Distribution of an intimate image -- Penalty.**

10947 (1)(a) As used in this section:

- 10948 (i) "Intimate image" means any visual depiction, photograph, film, video, recording,
- 10949 picture, or computer or computer-generated image, picture, or video, whether
- 10950 made or produced by electronic, mechanical, or other means, that depicts:
- 10951 (A) exposed human male or female genitals or pubic area, with less than an
- 10952 opaque covering;
- 10953 (B) a female breast with less than an opaque covering, or any portion of the
- 10954 female breast below the top of the areola; or
- 10955 (C) the individual engaged in any sexually explicit conduct.
- 10956 (ii) "Sexually explicit conduct" means actual or simulated:
- 10957 (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or
- 10958 oral-anal, whether between individuals of the same or opposite sex;
- 10959 (B) masturbation;
- 10960 (C) bestiality;
- 10961 (D) sadistic or masochistic activities;
- 10962 (E) exhibition of the genitals, pubic region, buttocks, or female breast of any
- 10963 individual;

- 10964 (F) visual depiction of nudity or partial nudity;
- 10965 (G) fondling or touching of the genitals, pubic region, buttocks, or female breast;
- 10966 or
- 10967 (H) explicit representation of the defecation or urination functions.
- 10968 (iii) "Simulated sexually explicit conduct" means a feigned or pretended act of
- 10969 sexually explicit conduct that duplicates, within the perception of an average
- 10970 person, the appearance of an actual act of sexually explicit conduct.
- 10971 (iv) "Single criminal episode" means the same as that term is defined in Section
- 10972 76-1-401.
- 10973 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 10974 (2)(a) An actor commits the offense of distribution of an intimate image if:
- 10975 (i) the actor knowingly or intentionally distributes to a third party, or knowingly
- 10976 duplicates or copies an intimate image of an individual who is 18 years old or
- 10977 older and knows or should know that the distribution, duplication or copying
- 10978 would cause a reasonable person to suffer emotional distress or harm;
- 10979 (ii) the actor has not received consent from the individual depicted in the image to
- 10980 distribute the intimate image;
- 10981 (iii) the intimate image was created by or provided to the actor under circumstances
- 10982 in which the individual depicted in the image has a reasonable expectation of
- 10983 privacy; and
- 10984 (iv) except as provided in Subsection (2)(b), actual emotional distress or harm is
- 10985 caused to the individual depicted in the image as a result of the distribution.
- 10986 (b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a)
- 10987 if:
- 10988 (i) the individual depicted in the intimate image was the victim of a crime;
- 10989 (ii) the intimate image was provided to law enforcement as part of an investigation or
- 10990 prosecution of a crime committed against the victim;
- 10991 (iii) the intimate image was distributed without a legitimate law enforcement or
- 10992 investigative purpose by an individual who had access to the intimate image due
- 10993 to the individual's association with the investigation or prosecution described in
- 10994 Subsection (2)(b)(ii); and

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- 10995 (iv) the victim is incapacitated or deceased.
- 10996 (3)(a) A violation of Subsection (2) is a class A misdemeanor.
- 10997 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree
- 10998 felony on a second or subsequent conviction for an offense under this section that
- 10999 does not arise from a single criminal episode.
- 11000 (4) This section does not apply to:
- 11001 (a) except as provided in Section 76-5b-203.5:
- 11002 (i) lawful practices of law enforcement agencies;
- 11003 (ii) prosecutorial agency functions;
- 11004 (iii) the reporting of a criminal offense;
- 11005 (iv) court proceedings or any other judicial proceeding; or
- 11006 (v) lawful and generally accepted medical practices and procedures;
- 11007 (b) an intimate image if the individual portrayed in the image voluntarily allows public
- 11008 exposure of the image;
- 11009 (c) an intimate image that is portrayed in a lawful commercial setting; or
- 11010 (d) an intimate image that is related to a matter of public concern or interest.
- 11011 (5)(a) This section does not apply to an Internet service provider or interactive computer
- 11012 service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic
- 11013 communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications
- 11014 service, information service, or mobile service as defined in 47 U.S.C. Sec. 153,
- 11015 including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable
- 11016 operator as defined in 47 U.S.C. Sec. 522, if:
- 11017 (i) the distribution of an intimate image by the Internet service provider occurs only
- 11018 incidentally through the provider's function of:
- 11019 (A) transmitting or routing data from one person to another person; or
- 11020 (B) providing a connection between one person and another person;
- 11021 (ii) the provider does not intentionally aid or abet in the distribution of the intimate
- 11022 image; and
- 11023 (iii) the provider does not knowingly receive from or through a person who
- 11024 distributes the intimate image a fee greater than the fee generally charged by the
- 11025 provider, as a specific condition for permitting the person to distribute the intimate

- 11026 image.
- 11027 (b) This section does not apply to a hosting company, as defined in Section [~~76-10-1230~~]
- 11028 ~~76-5c-401~~, if:
- 11029 (i) the distribution of an intimate image by the hosting company occurs only
- 11030 incidentally through the hosting company's function of providing data storage
- 11031 space or data caching to a person;
- 11032 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
- 11033 of the intimate image; and
- 11034 (iii) the hosting company does not knowingly receive from or through a person who
- 11035 distributes the intimate image a fee greater than the fee generally charged by the
- 11036 provider, as a specific condition for permitting the person to distribute, store, or
- 11037 cache the intimate image.
- 11038 (c) A service provider, as defined in Section [~~76-10-1230~~] ~~76-5c-401~~, is not negligent
- 11039 under this section if it complies with Section [~~76-10-1231~~] ~~76-5c-402~~.
- 11040 Section 169. Section **76-5b-205** is amended to read:
- 11041 **76-5b-205 . Unlawful distribution of a counterfeit intimate image -- Penalty.**
- 11042 (1)(a) As used in this section:
- 11043 (i) "Child" means an individual under 18 years old.
- 11044 (ii) "Counterfeit intimate image" means any visual depiction, photograph, film, video,
- 11045 recording, picture, or computer or computer-generated image , picture, or video,
- 11046 whether made or produced by electronic, mechanical, or other means, that has
- 11047 been edited, manipulated, generated, or altered to depict the likeness of an
- 11048 identifiable individual and purports to, or is made to appear to, depict that
- 11049 individual's:
- 11050 (A) exposed human male or female genitals or pubic area, with less than an
- 11051 opaque covering;
- 11052 (B) a female breast with less than an opaque covering, or any portion of the
- 11053 female breast below the top of the areola; or
- 11054 (C) the individual engaged in any sexually explicit conduct or simulated sexually
- 11055 explicit conduct.
- 11056 (iii) "Sexually explicit conduct" means the same as that term is defined in Section

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- 11057 76-5b-203.
- 11058 (iv) "Simulated sexually explicit conduct" means the same as that term is defined in
11059 Section 76-5b-203.
- 11060 (v) "Single criminal episode" means the same as that term is defined in Section
11061 76-1-401.
- 11062 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 11063 (2)(a) An actor commits the offense of unlawful distribution of a counterfeit intimate
11064 image if the actor knowingly or intentionally distributes a counterfeit intimate image
11065 that the actor knows or should reasonably know would cause a reasonable person to
11066 suffer emotional or physical distress or harm, if:
- 11067 (i) the actor has not received consent from the depicted individual to distribute the
11068 counterfeit intimate image; and
- 11069 (ii) the counterfeit intimate image was created or provided by the actor without the
11070 knowledge and consent of the depicted individual.
- 11071 (b) An actor who is 18 years old or older commits aggravated unlawful distribution of a
11072 counterfeit intimate image if, in committing the offense described in Subsection
11073 (2)(a), the individual depicted in the counterfeit intimate image is a child.
- 11074 (3)(a)(i) A violation of Subsection (2)(a) that is knowing or intentional is a class A
11075 misdemeanor.
- 11076 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2)(a) that is
11077 knowing or intentional is a third degree felony on a second or subsequent
11078 conviction for an offense under this section that does not arise from a single
11079 criminal episode.
- 11080 (b)(i) A violation of Subsection (2)(b) that is knowing or intentional is a third degree
11081 felony.
- 11082 (ii) Notwithstanding Subsection (3)(b)(i), a violation of Subsection (2)(b) that is
11083 knowing or intentional is a second degree felony on a second or subsequent
11084 conviction for an offense under this section that does not arise from a single
11085 criminal episode.
- 11086 (c) This section does not apply to an actor who engages in conduct that constitutes a
11087 violation of this section to the extent that the actor is chargeable, for the same

- 11088 conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section
11089 76-5b-201.1, aggravated sexual exploitation of a minor.
- 11090 (4) This section does not apply to:
- 11091 (a)(i) lawful practices of law enforcement agencies;
11092 (ii) prosecutorial agency functions;
11093 (iii) the reporting of a criminal offense;
11094 (iv) court proceedings or any other judicial proceeding; or
11095 (v) lawful and generally accepted medical practices and procedures;
- 11096 (b) a counterfeit intimate image if the individual depicted in the image voluntarily
11097 allows public exposure of the image;
- 11098 (c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or
11099 (d) a counterfeit intimate image that is related to a matter of public concern or interest or
11100 protected by the First Amendment to the United States Constitution or Article I,
11101 Sections 1 and 15 of the Utah Constitution.
- 11102 (5)(a) This section does not apply to an Internet service provider or interactive computer
11103 service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic
11104 communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications
11105 service, information service, or mobile service as defined in 47 U.S.C. Sec. 153,
11106 including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable
11107 operator as defined in 47 U.S.C. Sec. 522, if:
- 11108 (i) the distribution of a counterfeit intimate image by the Internet service provider
11109 occurs only incidentally through the provider's function of:
11110 (A) transmitting or routing data from one person to another person; or
11111 (B) providing a connection between one person and another person;
- 11112 (ii) the provider does not intentionally aid or abet in the distribution of the counterfeit
11113 intimate image; and
- 11114 (iii) the provider does not knowingly receive from or through a person who
11115 distributes the counterfeit intimate image a fee greater than the fee generally
11116 charged by the provider, as a specific condition for permitting the person to
11117 distribute the counterfeit intimate image.
- 11118 (b) This section does not apply to a hosting company, as defined in Section [76-10-1230]

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- 11119 76-5c-401, if:
- 11120 (i) the distribution of a counterfeit intimate image by the hosting company occurs
- 11121 only incidentally through the hosting company's function of providing data storage
- 11122 space or data caching to a person;
- 11123 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
- 11124 of the counterfeit intimate image;
- 11125 (iii) the hosting company does not knowingly receive from or through a person who
- 11126 distributes the counterfeit intimate image a fee greater than the fee generally
- 11127 charged by the provider, as a specific condition for permitting the person to
- 11128 distribute, store, or cache the counterfeit intimate image; and
- 11129 (iv) the hosting company immediately removes the counterfeit intimate image upon
- 11130 notice from a law enforcement agency, prosecutorial agency, or the individual
- 11131 purportedly depicted in the counterfeit intimate image.
- 11132 (c) A service provider, as defined in Section ~~[76-10-1230]~~ 76-5c-401, is not negligent
- 11133 under this section if it complies with Section ~~[76-10-1231]~~ 76-5c-402.
- 11134 Section 170. Section **76-5b-206**, which is renumbered from Section 76-10-1204.5 is renumbered
- 11135 and amended to read:
- 11136 ~~[76-10-1204.5]~~ **76-5b-206 . Failure to report child sexual abuse material by a computer**
- 11137 **technician.**
- 11138 ~~[(1) As used in this section:]~~
- 11139 ~~[(a) "Child sexual abuse material" means the same as that term is defined in Section~~
- 11140 ~~76-5b-103.]~~
- 11141 ~~[(b) "Computer technician" or "technician" means an individual who in the course and~~
- 11142 ~~scope of the individual's employment for compensation installs, maintains,~~
- 11143 ~~troubleshoots, upgrades, or repairs computer hardware, software, personal computer~~
- 11144 ~~networks, or peripheral equipment.]~~
- 11145 ~~[(c) "Image" means an image of child sexual abuse material or an image that a computer~~
- 11146 ~~technician reasonably believes is child sexual abuse material.]~~
- 11147 ~~[(2)(a) A computer technician who in the course of employment for compensation views~~
- 11148 ~~an image on a computer or other electronic device that is or appears to be child sexual~~
- 11149 ~~abuse material shall immediately report the finding of the image to:]~~

- 11150 ~~[(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center~~
11151 ~~for Missing and Exploited Children; or]~~
- 11152 ~~[(ii) an employee designated by the employer of the computer technician in accordance~~
11153 ~~with Subsection (3).]~~
- 11154 ~~[(b) A computer technician who willfully does not report an image as required under~~
11155 ~~Subsection (2)(a) is guilty of a class B misdemeanor.]~~
- 11156 ~~[(c) The identity of the computer technician who reports an image shall be confidential,~~
11157 ~~except as necessary for the criminal investigation and the judicial process.]~~
- 11158 ~~[(d)(i) If the computer technician makes or does not make a report under this section in~~
11159 ~~good faith, the technician is immune from any criminal or civil liability related to~~
11160 ~~reporting or not reporting the image.]~~
- 11161 ~~[(ii) In this Subsection (2)(d), good faith may be presumed from an employee's or~~
11162 ~~employer's previous course of conduct when the employee or employer has made~~
11163 ~~appropriate reports.]~~
- 11164 ~~[(e) It is a defense to prosecution under this section that the computer technician did not~~
11165 ~~report the image because the technician reasonably believed the image did not depict a~~
11166 ~~person younger than 18 years old.]~~
- 11167 (1)(a) As used in this section, "computer technician" means an individual who in the
11168 course and scope of the individual's employment for compensation installs,
11169 maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal
11170 computer networks, or peripheral equipment.
- 11171 (b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- 11172 (2)(a) An actor commits failure to report child sexual abuse material by a computer
11173 technician if:
- 11174 (b) the actor is a computer technician;
- 11175 (c) in the actor's course of employment for compensation the actor views an image on a
11176 computer or other electronic device that:
- 11177 (i) is child sexual abuse material;
11178 (ii) appears to be child sexual abuse material; or
11179 (iii) the actor reasonably believes is child sexual abuse material; and
- 11180 (d) the actor willfully fails to immediately report the finding of the image to:

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- 11181 (i) a state or local law enforcement agency;
- 11182 (ii) the Cyber Tip Line at the National Center for Missing and Exploited Children; or
- 11183 (iii) an employee designated by the employer of the computer technician in
- 11184 accordance with Subsection (7).
- 11185 (3) A violation of Subsection (2) a class B misdemeanor.
- 11186 (4) The identity of the computer technician who reports an image that is or appears to be
- 11187 child sexual abuse material shall be confidential, except as necessary for the criminal
- 11188 investigation and the judicial process.
- 11189 (5)(a) If a computer technician makes or does not make a report under this section and
- 11190 is acting in good faith, the technician is immune from any criminal or civil liability
- 11191 related to reporting or not reporting the image.
- 11192 (b) Good faith described in Subsection (5)(a) may be presumed from a computer
- 11193 technician's previous course of conduct when the computer technician has made
- 11194 appropriate reports.
- 11195 (6) It is a defense to prosecution under this section that the computer technician did not
- 11196 report the image because the computer technician reasonably believed the image did not
- 11197 depict an individual younger than 18 years old.
- 11198 [(3)] (7)(a) An employer of a computer technician may implement a procedure that
- 11199 requires:
- 11200 (i) the computer technician report an image as is required under Subsection [(2)(a)]
- 11201 (2) to an employee designated by the employer to receive the report of the image;
- 11202 and
- 11203 (ii) the designated employee to immediately forward the report provided by the
- 11204 computer technician to an agency [~~under Subsection (2)(a)(i)] described in~~
- 11205 Subsection (2)(d)(i).
- 11206 (b) Compliance by the computer technician and the designated employee with the
- 11207 reporting process under Subsection [(3)(a)] (7)(a) is compliance with the reporting
- 11208 requirement of [~~this section~~] Subsection (2)(d) and establishes immunity under
- 11209 Subsection [(2)(d)] (5)(a).
- 11210 [(4)] (8) This section does not apply to an Internet service provider or interactive computer
- 11211 service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic

11212 communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications
11213 service, information service, or mobile service as defined in 47 U.S.C. Sec. 153,
11214 including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable
11215 operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in
11216 compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting
11217 by a provider of an image of child sexual abuse material.

11218 Section 171. Section **76-5c-101**, which is renumbered from Section 76-10-1201 is renumbered
11219 and amended to read:

11220 **CHAPTER 5c. PORNOGRAPHIC AND HARMFUL MATERIALS AND PERFORMANCES**

11222 **Part 1. General Provisions**

11223 **~~[76-10-1201]~~76-5c-101 . Definitions.**

11224 ~~[For the purpose of]~~ As used in this ~~[part]~~ chapter:

11225 (1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the
11226 lower 2/3 of the material is concealed from view.

11227 (2) "Constructive awareness" means that:

11228 (a) a reasonable inspection or observation by an individual under the circumstances
11229 would have disclosed the nature of the subject matter; and

11230 (b) a failure to inspect or observe by the individual is either for the purpose of avoiding
11231 the disclosure or the individual is criminally negligent.

11232 ~~[(2)]~~ (3) "Contemporary community standards" means those current standards in the
11233 vicinage where an offense alleged under this part has occurred, is occurring, or will
11234 occur.

11235 (4) "Criminally negligent" means the same as that term is defined in Section 76-2-103.

11236 ~~[(3)]~~ (5) "Distribute" means to transfer possession of ~~[materials whether]~~ a material with or
11237 without consideration.

11238 ~~[(4)]~~ (6) "Exhibit" means to show.

11239 ~~[(5)]~~ (7)(a) "Harmful to minors" means that quality of any description or representation,
11240 in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic
11241 abuse when it:

11242 (i) taken as a whole, appeals to the prurient interest in sex of minors;

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11243 (ii) is patently offensive to prevailing standards in the adult community as a whole
11244 with respect to what is suitable material for minors; and

11245 (iii) taken as a whole, does not have serious value for minors.

11246 (b) Serious value includes only serious literary, artistic, political or scientific value for
11247 minors.

11248 ~~[(6)]~~ ~~(8)~~~~[(a)]~~ "Knowingly," regarding material or a performance, means an awareness,
11249 whether actual awareness or constructive awareness, of the character of the material
11250 or performance.

11251 ~~[(b) As used in this Subsection (6), a person has constructive knowledge if a reasonable~~
11252 ~~inspection or observation under the circumstances would have disclosed the nature of~~
11253 ~~the subject matter and if a failure to inspect or observe is either for the purpose of~~
11254 ~~avoiding the disclosure or is criminally negligent as described in Section 76-2-103.]~~

11255 ~~[(7)]~~ ~~(9)~~~~(a)~~ "Material" means anything printed or written or any picture, drawing,
11256 photograph, motion picture, or pictorial representation, or any statue or other figure,
11257 or any recording or transcription, or any mechanical, chemical, or electrical
11258 reproduction, or anything which is or may be used as a means of communication.~~[-]~~

11259 ~~(b)~~ "Material" includes undeveloped photographs, molds, printing plates, and other
11260 latent representational objects.

11261 ~~[(8)]~~ ~~(10)~~ "Minor" means ~~[any person less]~~ an individual younger than 18 years ~~[of age]~~ old.

11262 ~~[(9)]~~ ~~(11)~~ "Negligently" means simple negligence, the failure to exercise that degree of care
11263 that a reasonable and prudent person would exercise under like or similar circumstances.

11264 ~~[(10)]~~ ~~(12)~~ "Nudity" means:

11265 (a) the showing of the human male or female genitals, pubic area, or buttocks, with less
11266 than an opaque covering;

11267 (b) the showing of a female breast with less than an opaque covering, or any portion of
11268 the female breast below the top of the areola; or

11269 (c) the depiction of covered male genitals in a discernibly turgid state.

11270 ~~[(11)]~~ ~~(13)~~ "Performance" means any physical human bodily activity, whether engaged in
11271 alone or with other ~~[persons]~~ individuals, including singing, speaking, dancing, acting,
11272 simulating, or pantomiming.

11273 ~~(14)~~ "Pornographic" means:

- 11274 (a) the average individual, applying contemporary community standards, finds that,
11275 taken as a whole, the material or performance appeals to prurient interest in sex;
11276 (b) the material or performance is patently offensive in the description or depiction of
11277 nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and
11278 (c) taken as a whole the material or performance does not have serious literary, artistic,
11279 political or scientific value.

11280 [(12)] (15) "Public place" includes a place to which admission is gained by payment of a
11281 membership or admission fee, however designated, notwithstanding its being designated
11282 a private club or by words of like import.

11283 [(13)] (16) "Sadomasochistic abuse" means:

- 11284 (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a
11285 mask, or in a revealing or bizarre costume; or
11286 (b) the condition of being fettered, bound, or otherwise physically restrained on the part
11287 of [a person] an individual clothed as described in Subsection [(13)(a)-] (14)(a).

11288 [(14)] (17) "Sexual conduct" means acts of masturbation, sexual intercourse, or any
11289 touching of [a person's] an individual's clothed or unclothed genitals, pubic area,
11290 buttocks, or, if the [person] individual is a female, breast, whether alone or between
11291 members of the same or opposite sex or between humans and animals in an act of
11292 apparent or actual sexual stimulation or gratification.

11293 [(15)] (18) "Sexual excitement" means a condition of human male or female genitals when
11294 in a state of sexual stimulation or arousal, or the sensual experiences of humans
11295 engaging in or witnessing sexual conduct or nudity.

11296 Section 172. Section **76-5c-102**, which is renumbered from Section 76-10-1203 is renumbered
11297 and amended to read:

11298 **[76-10-1203]76-5c-102 . Evidence related to a material's or performance's literary, artistic,**
11299 **political, or scientific value.**

11300 [(1) Any material or performance is pornographic if:]

- 11301 [(a) The average person, applying contemporary community standards, finds that, taken as
11302 a whole, it appeals to prurient interest in sex;]
11303 [(b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual
11304 excitement, sadomasochistic abuse, or excretion; and]

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11305 ~~[(e) Taken as a whole it does not have serious literary, artistic, political or scientific value.]~~

11306 ~~[(2)]~~ (1) In ~~[prosecutions]~~ a prosecution under this ~~[part]~~ chapter, where circumstances of
11307 production, presentation, sale, dissemination, distribution, exhibition, or publicity
11308 indicate that the matter is being commercially exploited by the ~~[defendant]~~ actor for the
11309 sake of ~~[its]~~ the matter's prurient appeal, this evidence is probative with respect to the
11310 nature of the matter and can justify the conclusion that, in the context in which ~~[it]~~ the
11311 matter is used, the matter has no serious literary, artistic, political, or scientific value.

11312 ~~[(3)]~~ (2) ~~[Neither the prosecution nor the defense shall be]~~ In a prosecution under this chapter
11313 neither the prosecution or the defense is required to introduce expert witness testimony
11314 to testify as to whether [the] a material or performance is or is not harmful to adults or
11315 minors or is or is not pornographic, or as to any element of the definition of
11316 pornographic, including contemporary community standards.

11317 Section 173. Section **76-5c-103**, which is renumbered from Section 76-10-1210 is renumbered
11318 and amended to read:

11319 ~~[76-10-1210]~~ **76-5c-103 . Relation to other state and local laws.**

11320 (1)~~[(a) It is not the intent of this part to prescribe or limit the regulation of~~
11321 ~~pornographic materials or materials harmful to minors, and counties, cities, and other~~
11322 ~~political subdivisions are specifically given the right to further regulate the materials.]~~

11323 ~~[(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.

11324 (b) Without limitation, a political subdivision may further regulate pornographic
11325 materials or materials harmful to minors by ordinances relating to:

11326 (i) zoning;

11327 (ii) licensing;

11328 (iii) public nuisances;

11329 (iv) a specific type of business such as adult bookstores or drive-in movies; or

11330 (v) use of blinder racks.

11331 (2) ~~[It is not the intent of this part to]~~ This chapter does not preclude the application of other
11332 laws of this state to pornographic materials or materials harmful to minors~~[- Specifically]~~

11333 and, without limitation, this ~~[part]~~ chapter is not in derogation of ~~[Sections 76-10-803]~~
11334 ~~Subsection 76-9-1301(2)~~ and ~~[76-10-806]~~ ~~Section 76-9-1306.~~

11335 (3)(a) The commission of a crime under this ~~[part shall be considered to offend]~~ chapter
11336 ~~offends public decency under [Section 76-10-803]~~ ~~Subsection 76-9-1301(2).~~

11337 (b) ~~[-]~~It is the intent of this ~~[part]~~ chapter to give the broadest meaning permissible under
11338 the ~~[federal and state constitutions]~~ United States Constitution and the Utah
11339 Constitution to the words "offends public decency" in ~~[Section 76-10-803]~~
11340 ~~Subsection 76-9-1301(2).~~

11341 Section 174. Section **76-5c-104**, which is renumbered from Section 76-10-1209 is renumbered
11342 and amended to read:

11343 ~~[76-10-1209]~~**76-5c-104 . Injunctive relief -- Jurisdiction -- Consent to be sued.**

11344 (1)(a) ~~[The district courts of this state shall have-]~~ Subject to Subsections (1)(b), (c), (d),
11345 and (e), a district court has full power, authority, and jurisdiction, upon application by
11346 any county attorney or city attorney within [their] the county attorney's or city
11347 attorney's respective jurisdictions or the attorney general, to issue any and all proper
11348 restraining orders, preliminary and permanent injunctions, and any other writs and
11349 processes appropriate to carry out and enforce the provisions of this [part] chapter.

11350 (b) ~~[-]~~No restraining order or injunction, however, shall issue except upon notice to the
11351 person sought to be enjoined.~~[-]~~

11352 (c) ~~[That]~~ The person [shall be] sought to be enjoined is entitled to a trial of the issues
11353 commencing within three days after [filing of an] the day on which the answer to the
11354 complaint is filed and a decision by the court [shall be rendered by the court] is
11355 required to be rendered within two days after the conclusion of the trial.~~[-]~~

11356 (d) If a final order or judgment of injunction is entered against the person sought to be
11357 enjoined, this final order or judgment shall contain a provision directing the person to
11358 surrender to the sheriff of the county in which the action was brought any
11359 pornographic material in the person's possession which is subject to the injunction[;] .

11360 (e) ~~[-and the]~~ The sheriff receiving the material described in Subsection (1)(d) shall be
11361 directed to seize and destroy [this] the material.

11362 (2) Any person not qualified to do business in the state who sends or brings any
11363 pornographic material into the state with the intent to distribute or exhibit ~~[it]~~ the

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11364 pornographic material to others in this state consents that the person may be sued in any
11365 proceedings commenced under this section.

11366 Section 175. Section **76-5c-105**, which is renumbered from Section 76-10-1207 is renumbered
11367 and amended to read:

11368 ~~[76-10-1207]~~ **76-5c-105 . Lease void if property used for conduct prohibited by chapter.**

11369 (1) If a tenant or occupant of real property uses ~~[this]~~ the real property for an activity for
11370 which ~~[he or his]~~ the tenant or occupant or tenant's or occupant's employee is convicted
11371 under any provision of this ~~[part]~~ chapter, the conviction makes void the lease or other
11372 title under which ~~[he]~~ the tenant or occupant holds at the option of the fee owner or any
11373 intermediate lessor~~[;]~~ .

11374 (2) ~~[and 10]~~ Subject to Subsection (3), ten days after the day on which the fee owner or ~~[any]~~
11375 intermediate lessor gives notice in writing to the tenant or occupant that ~~[he]~~ the fee
11376 owner or intermediate lessor is exercising the option to void the lease or other title as
11377 described in Subsection (1), the right of possession to the property reverts [in] to the [
11378 person] fee owner or intermediate lessor exercising the option.[-]

11379 (3) ~~[This-]~~ The fee owner's or intermediate lessor's option described in Subsection (2) does
11380 not arise until all avenues of direct appeal from the conviction have been exhausted or
11381 abandoned by the tenant or occupant, or [his] the tenant's or occupant's employee.

11382 ~~[(2) It shall be unlawful for a fee owner or intermediate lessor of real property to~~
11383 ~~knowingly allow this property to be used for the purpose of distributing or exhibiting~~
11384 ~~pornographic materials, or for pornographic performances, by a tenant or occupant if the~~
11385 ~~tenant or occupant, or his employee, has been convicted under any provision of this part~~
11386 ~~of an offense occurring on the same property and all avenues of direct appeal from the~~
11387 ~~conviction have been exhausted or abandoned.]~~

11388 ~~[(a) "Allow" under this subsection (2) means a failure to exercise the option arising under~~
11389 ~~subsection (1) within 10 days after the fee owner or lessor receives notice in writing~~
11390 ~~from the county attorney of the county where the property is situated, or if situated in a~~
11391 ~~city of the first or second class, from the city attorney of that city, that the property is~~
11392 ~~being used for a purpose prohibited by this subsection (2).]~~

11393 ~~[(b) A willful violation of this subsection (2) is a class A misdemeanor and any fine~~
11394 ~~assessed, if not paid within 30 days after judgment, shall become a lien upon the~~

11395 property.]
11396 [(3) Any tenant or occupant who receives a notice in writing that the fee owner or
11397 intermediate lessor is exercising the option provided by subsection (1) and who does not
11398 quit the premises within 10 days after the giving of that notice is guilty of a class A
11399 misdemeanor.]

11400 Section 176. Section **76-5c-106**, which is renumbered from Section 76-10-1213 is renumbered
11401 and amended to read:

11402 **~~[76-10-1213]~~76-5c-106 . Corporate defendants -- Summons -- Subpoena duces tecum.**

11403 (1)(a) The attendance in court ~~[of]~~ by a corporation for purposes of commencing or
11404 prosecuting a criminal action against ~~[it]~~ the corporation under this ~~[part]~~ chapter may
11405 be accomplished by the issuance and service of a summons~~[-. A summons shall be -]~~
11406 issued by a magistrate if ~~[he]~~ the magistrate finds probable cause that material in the
11407 possession of the corporation ~~[against which the summons is sought -]~~ is pornographic
11408 or harmful to minors, which finding shall be upon affidavit describing with
11409 specificity the material alleged to be pornographic or harmful to minors or by another
11410 manner or means the magistrate finds necessary.

11411 (b) Where practical, the material alleged to be pornographic or harmful to minors shall
11412 be attached to the affidavit ~~[so as -]~~ described in Subsection (1)(a) to ~~[afford]~~ provide
11413 the magistrate with the opportunity to examine ~~[this]~~ the material.

11414 (c) The summons must be served upon the corporation by delivery of ~~[it]~~ the summons to
11415 an officer, director, managing or general agent, or cashier, or assistant cashier of the
11416 corporation.

11417 (2) The production of material alleged to be pornographic or harmful to minors in any
11418 proceedings under this ~~[part]~~ chapter against a corporation may be compelled by the
11419 issuance and service of a subpoena duces tecum.~~[-]~~

11420 (3) This section does not prohibit or limit the use of a subpoena duces tecum in proceedings
11421 against ~~[natural persons]~~ individuals under this ~~[part]~~ chapter.

11422 Section 177. Section **76-5c-107**, which is renumbered from Section 76-10-1212 is renumbered
11423 and amended to read:

11424 **~~[76-10-1212]~~76-5c-107 . Search and seizure -- Affidavit -- Issuance of warrant -- Hearing**
11425 **upon claim that material seized not pornographic or harmful to minors --**

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11426 **Procedures cumulative.**

11427 (1)(a) An affidavit for a search warrant shall be filed with ~~[the]~~ a magistrate describing
11428 with specificity the material sought to be seized.[-]

11429 (b) Where practical, the material alleged to be pornographic or harmful to minors shall
11430 be attached to the affidavit for a search warrant described in Subsection (1)(a) to [
11431 ~~afford]~~ provide the magistrate with the opportunity to examine ~~[this]~~ the material.

11432 (2)(a) Upon the filing of an affidavit for a search warrant under Subsection (1), the
11433 magistrate shall determine, by examination of the material sought to be seized if
11434 attached, by examination of the affidavit describing the material, or by ~~[other]~~ another
11435 manner or means that ~~[he]~~ the magistrate finds necessary, whether probable cause
11436 exists to believe that the material is pornographic or harmful to minors and whether
11437 probable cause exists for the immediate issuance of a search warrant.[-]

11438 (b) Upon making ~~[this]~~ the determination that probable cause exists under Subsection
11439 (2)(a), ~~[he]~~ the magistrate shall issue a search warrant ordering the seizure of the
11440 material described in the affidavit for a search warrant according to the provisions of
11441 the Utah Rules of Criminal Procedure.

11442 (3)(a) If a search warrant is issued under Subsection (2) and the material alleged to be
11443 pornographic or harmful to minors is seized under the provisions of this section, any
11444 person claiming to be in possession of this material or claiming ownership of ~~[it]~~ the
11445 material at the time of ~~[its]~~ the material's seizure may file a notice in writing with the
11446 magistrate within 10 days after the ~~[date of the seizure]~~ day on which the material was
11447 seized, ~~[alleging]~~ to assert that the material is not pornographic or harmful to minors.

11448 (b) The magistrate shall set a hearing within seven days after the filing of ~~[this notice]~~ the
11449 notice described in Subsection (3)(a), or at another time ~~[to which]~~ with the consent of
11450 the claimant~~[-might agree. At this hearing-]~~ , at which evidence may be presented ~~[as~~
11451 ~~to]~~ regarding whether there is probable cause to believe that the material seized is
11452 pornographic or harmful to minors~~[-and]~~ .~~[-at the conclusion of the hearing the~~
11453 ~~magistrate shall make a further determination of whether probable cause exists to~~
11454 ~~believe that the material is pornographic or harmful to minors.]~~

11455 (c)(i) ~~[A-]~~ At the conclusion of the hearing described in Subsection (3)(b), the
11456 magistrate shall make a further determination of whether probable cause exists to

11457 believe that the material is pornographic or harmful to minors.

11458 (ii) [decision] [as to whether there is probable cause to believe the seized material is
11459 pornographic or harmful to minors.] The magistrate's determination described in
11460 Subsection (3)(c)(i) shall be rendered by the court within two days after[the
11461 conclusion of the hearing] the day on which the hearing described in Subsection
11462 (3)(b) concludes.

11463 (d) If at the hearing described in Subsection (3)(b) the magistrate finds that no probable
11464 cause exists to believe that the material is pornographic or harmful to minors,~~[then]~~
11465 the material shall be returned to the person~~[or persons]~~ from whom it was seized.

11466 (e) If the material seized is a film, and the claimant demonstrates that no other copy of
11467 the film is available to ~~[him]~~ the claimant, the court shall allow the film to be copied
11468 at the claimant's expense pending the hearing described in Subsection (3)(b).

11469 (4) If a motion to suppress the evidence is granted on the grounds of an unlawful seizure,
11470 the property shall be restored unless it is subject to confiscation as contraband, in which
11471 case ~~[it]~~ the property may not be returned.

11472 (5)(a) Procedures under this section for the seizure of allegedly pornographic material
11473 or material harmful to minors are cumulative of all other lawful means of obtaining
11474 evidence as provided by the laws of this state.

11475 (b) This section does not prevent the obtaining of allegedly pornographic material or
11476 material harmful to minors by purchase, subpoena duces tecum, or under injunction
11477 proceedings as authorized by this act or by any other provision of law of the state.

11478 Section 178. Section **76-5c-108**, which is renumbered from Section 76-10-1215 is renumbered
11479 and amended to read:

11480 **[76-10-1215]76-5c-108 . Prosecution by county, district, or city attorney.**

11481 (1) ~~[Prosecution]~~ Subject to Subsection (2), a prosecution for a violation [of any section
11482 of] of this [part] chapter, including for a felony violation, shall be brought by the county
11483 attorney or, if within a prosecution district, the district attorney of the county where the
11484 violation occurs.[-]

11485 (2) If ~~[the]~~ a violation occurs[-, however,] in a city of the first or second class, a prosecution
11486 may be brought by [either]the county attorney, district attorney, or city attorney,
11487 notwithstanding any provision of law limiting the powers of a city [attorneys-] attorney.

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11488 (3) ~~[-]All fines imposed for [the] a violation of this [part] chapter shall be paid to the county~~
11489 ~~or city [of] where the prosecuting attorney[, as the case may be] is located.~~

11490 Section 179. Section **76-5c-109**, which is renumbered from Section 76-10-1208 is renumbered
11491 and amended to read:

11492 ~~[76-10-1208]~~ **76-5c-109 . Affirmative defenses.**

11493 (1) It is an affirmative defense to a prosecution under this [part] chapter that the distribution
11494 of pornographic material is restricted to institutions or persons having scientific,
11495 educational, governmental, or other similar justification for possessing pornographic
11496 material.

11497 (2) It is not a defense to a prosecution under this [part] chapter that the actor is a motion
11498 picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to
11499 violate this [part] chapter incident to the [person's] actor's employment.

11500 ~~[(3) It is an affirmative defense to prosecution under Section 76-10-1206, 76-10-1227, or~~
11501 ~~76-10-1228 for displaying or exhibiting an outer portion of material, that the material is:]~~

11502 ~~[(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the~~
11503 ~~lower 2/3 of the material is concealed from view;]~~

11504 ~~[(b) placed behind a blinder rack; or]~~

11505 ~~[(c) displayed in an area from which a minor is physically excluded if the material cannot~~
11506 ~~be viewed by the minor from an area in which a minor is allowed.]~~

11507 Section 180. Section **76-5c-110**, which is renumbered from Section 76-10-1207.5 is renumbered
11508 and amended to read:

11509 ~~[76-10-1207.5]~~ **76-5c-110 . Exemptions to chapter.**

11510 (1) This [part] chapter does not apply to the Department of Corrections or any
11511 treatment program by or under contract with the [department] Department of Corrections
11512 when the use of ~~[sexually explicit-]material~~ that is pornographic is limited to the
11513 assessment or treatment of an offender as defined ~~[under] in~~ Section 64-13-1.

11514 (2) A woman breast feeding, including breast feeding in any location where the woman
11515 otherwise may rightfully be, does not under any circumstance constitute a violation of
11516 this chapter, irrespective of whether or not the woman's breast is covered during or
11517 incidental to feeding.

11518 Section 181. Section **76-5c-111**, which is renumbered from Section 76-10-1211 is renumbered

11519 and amended to read:

11520 ~~[76-10-1211]~~ **76-5c-111 . Severability clause.**

11521 ~~[If any clause, sentence, paragraph, or part of this part or its application to any~~
11522 ~~person or circumstance shall for any reason be adjudged by any court of competent~~
11523 ~~jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the~~
11524 ~~remainder of this part or its application to other persons or circumstances but shall be~~
11525 ~~confined in its operation to the clause, sentence, paragraph, persons, or circumstances, or~~
11526 ~~part thereof directly involved in the controversy in which the judgment shall have been~~
11527 ~~rendered.]~~

11528 (1) If any provision, part, section, or subsection of this chapter or the application of any
11529 provision, part, section, or subsection to any person or circumstance is held invalid by a
11530 final decision of a court, the remainder of this chapter shall be given effect without the
11531 invalid provision, part, section, or subsection or application.

11532 (2) The provisions of this chapter are severable.

11533 Section 182. Section **76-5c-201** is enacted to read:

11534

Part 2. General Offenses

11535 **76-5c-201 . Definitions.**

11536 As used in this part:

11537 (1) "Hosting company" means the same as that term is defined in 76-5c-401.

11538 (2) "Internet service provider" means the same as that term is defined in 76-5c-401.

11539 Section 183. Section **76-5c-202**, which is renumbered from Section 76-10-1204 is renumbered
11540 and amended to read:

11541 ~~[76-10-1204]~~ **76-5c-202 . Distributing pornographic material.**

11542 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

11543 ~~[(+)]~~ (2) ~~[A person is guilty of]~~ An actor commits distributing pornographic material~~[-when~~
11544 ~~the person] if the actor~~ knowingly:

11545 (a) sends or brings ~~[any-]~~ pornographic material into the state with intent to distribute or
11546 exhibit ~~[it]~~ the pornographic material to ~~[others]~~ another individual;

11547 (b) prepares, publishes, prints, or possesses ~~[any-]~~ pornographic material with intent to
11548 distribute or exhibit ~~[it]~~ the pornographic material to ~~[others]~~ another individual;

11549 (c) distributes or offers to distribute, or exhibits or offers to exhibit, ~~[any-]~~ pornographic

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- 11550 material to ~~[others]~~ another individual;
- 11551 (d) writes, creates, or solicits the publication or advertising of pornographic material;
- 11552 (e) promotes the distribution or exhibition of material the ~~[person]~~ actor represents to be
- 11553 pornographic; or
- 11554 (f) presents or directs a pornographic performance in ~~[any]~~ a public place or ~~[any]~~ a place
- 11555 exposed to public view or participates in that portion of the performance which
- 11556 makes ~~[it]~~ the performance pornographic.
- 11557 ~~[(2) Each distributing of pornographic material as defined in Subsection (1) is a separate~~
- 11558 ~~offense.]~~
- 11559 ~~[(3) It is a separate offense under this section for:]~~
- 11560 ~~[(a) each day's exhibition of any pornographic motion picture film; and]~~
- 11561 ~~[(b) each day in which any pornographic publication is displayed or exhibited in a public~~
- 11562 ~~place with intent to distribute or exhibit it to others.]~~
- 11563 ~~[(4)]~~ ~~(3)(a)~~ ~~[An offense under this section committed]~~ Except as provided in Subsections
- 11564 (3)(b), or (c), a violation of Subsection (2) is a third degree felony if the actor is~~[by a~~
- 11565 ~~person]~~ 18 years old or older ~~[is a third degree felony punishable by]~~ and is subject to:
- 11566 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
- 11567 exhibited up to the maximum allowed by law; and
- 11568 (ii) incarceration, without suspension of sentence in any way, for a term of not less
- 11569 than 30 days.
- 11570 (b) ~~[An offense under this section committed by a person]~~ Except as provided in
- 11571 Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor
- 11572 is 16 or 17 years old~~[is a class A misdemeanor].~~
- 11573 (c) ~~[An offense under this section committed by a person]~~ A violation of Subsection (2)
- 11574 is a class B misdemeanor if the actor is younger than 16 years old~~[is a class B~~
- 11575 ~~misdemeanor].~~
- 11576 ~~[(d) Subsection (4)(a) supersedes Section 77-18-105.]~~
- 11577 ~~[(5) A person 18 years old or older who knowingly solicits, requests, commands,~~
- 11578 ~~encourages, or intentionally aids another person younger than 18 years old to engage in~~
- 11579 ~~conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree felony and~~
- 11580 ~~is subject to the penalties under Subsection (4)(a).]~~

- 11581 (4) It is a separate offense under this section for:
- 11582 (a) each day's exhibition of a pornographic motion picture film;
- 11583 (b) each day in which a pornographic publication is displayed or exhibited in a public
- 11584 place with intent to distribute or exhibit the publication to another individual; or
- 11585 (c) each act of distributing of pornographic material described in Subsection (2).
- 11586 [~~(6)~~] (5)(a) This section does not apply to an Internet service provider~~[, as defined in~~
- 11587 ~~Section 76-10-1230,]~~ if:
- 11588 (i) the distribution of pornographic material by the Internet service provider occurs
- 11589 only incidentally through the Internet service provider's function of:
- 11590 (A) transmitting or routing data from one person to another person; or
- 11591 (B) providing a connection between one person and another person;
- 11592 (ii) the Internet service provider does not intentionally aid or abet in the distribution
- 11593 of the pornographic material; and
- 11594 (iii) the Internet service provider does not knowingly receive funds from or through a
- 11595 person who distributes the pornographic material in exchange for permitting the
- 11596 person to distribute the pornographic material.
- 11597 (b) This section does not apply to a hosting company~~[, as defined in Section 76-10-1230,]~~
- 11598 if:
- 11599 (i) the distribution of pornographic material by the hosting company occurs only
- 11600 incidentally through the hosting company's function of providing data storage
- 11601 space or data caching to a person;
- 11602 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
- 11603 of the pornographic material; and
- 11604 (iii) the hosting company does not knowingly receive funds from or through a person
- 11605 who distributes the pornographic material in exchange for permitting the person to
- 11606 distribute, store, or cache the pornographic material.
- 11607 (6) Subsection (3)(a) supersedes Section 77-18-105.
- 11608 Section 184. Section **76-5c-203** is enacted to read:
- 11609 **76-5c-203 . Aiding or abetting a minor in distributing pornographic material.**
- 11610 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 11611 (2) An actor commits aiding or abetting a minor in distributing pornographic material if the

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- 11612 actor:
- 11613 (a) is 18 years old or older; and
- 11614 (b) knowingly solicits, requests, commands, encourages, or intentionally aids a minor in:
- 11615 (i) sending or brining pornographic material into the state with intent to distribute or
- 11616 exhibit the pornographic material to another individual;
- 11617 (ii) preparing, publishing, printing, or possessing pornographic material with intent to
- 11618 distribute or exhibit the pornographic material to another individual;
- 11619 (iii) distributing or offering to distribute, or exhibiting or offering to exhibit,
- 11620 pornographic material to another individual;
- 11621 (iv) writing, creating, or soliciting the publication or advertising of pornographic
- 11622 material;
- 11623 (v) promoting the distribution or exhibition of material the minor represents to be
- 11624 pornographic; or
- 11625 (vi) presenting or directing a pornographic performance in a public place or a place
- 11626 exposed to public view or participates in that portion of the performance which
- 11627 makes the performance pornographic.
- 11628 (3) A violation of Subsection is a third degree felony subject to:
- 11629 (a) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
- 11630 exhibited up to the maximum allowed by law; and
- 11631 (b) incarceration, without suspension of sentence in any way, for a term of not less than
- 11632 30 days.
- 11633 (4)(a) Each act of distributing of pornographic material described in Subsection (2) is a
- 11634 separate offense.
- 11635 (b) It is a separate offense under this section for:
- 11636 (i) each day's exhibition of any pornographic motion picture film; and
- 11637 (ii) each day in which any pornographic publication is displayed or exhibited in a
- 11638 public place with intent to distribute or exhibit the publication to another
- 11639 individual.
- 11640 (5)(a) This section does not apply to an Internet service provider if:
- 11641 (i) the distribution of pornographic material by the Internet service provider occurs
- 11642 only incidentally through the Internet service provider's function of:

- 11643 (A) transmitting or routing data from one person to another person; or
11644 (B) providing a connection between one person and another person;
11645 (ii) the Internet service provider does not intentionally aid or abet in the distribution
11646 of the pornographic material; and
11647 (iii) the Internet service provider does not knowingly receive funds from or through a
11648 person who distributes the pornographic material in exchange for permitting the
11649 person to distribute the pornographic material.

11650 (b) This section does not apply to a hosting company if:

- 11651 (i) the distribution of pornographic material by the hosting company occurs only
11652 incidentally through the hosting company's function of providing data storage
11653 space or data caching to a person;
11654 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
11655 of the pornographic material; and
11656 (iii) the hosting company does not knowingly receive funds from or through a person
11657 who distributes the pornographic material in exchange for permitting the person to
11658 distribute, store, or cache the pornographic material.

11659 (6) Subsection (3) supersedes Section 77-18-105.

11660 Section 185. Section **76-5c-204**, which is renumbered from Section 76-10-1205 is renumbered
11661 and amended to read:

11662 ~~[76-10-1205]~~ **76-5c-204 . Inducing acceptance of pornographic material.**

11663 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

11664 ~~[(1)]~~ (2) ~~[A person is guilty of-]~~ An actor commits inducing acceptance of pornographic
11665 material [when he] if the actor knowingly:

11666 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery for
11667 resale of any newspaper, magazine, periodical, book, publication, or other
11668 merchandise that the purchaser or consignee receive any pornographic material or
11669 material reasonably believed by the purchaser or consignee to be pornographic; or

11670 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty,
11671 financial or otherwise, because of the failure or refusal to accept pornographic
11672 material or material reasonably believed by the purchaser or consignee to be
11673 pornographic.

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11674 ~~[(2)] (3)~~~~[(a) An offense under this section]~~ A violation of Subsection (2) is a third
11675 degree felony ~~[punishable by]~~ subject to:
11676 ~~[(i)]~~ (a) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article
11677 exhibited up to the maximum allowed by law; and
11678 ~~[(ii)]~~ (b) incarceration, without suspension of sentence in any way, for a term of not less
11679 than 30 days.
11680 ~~[(b) This Subsection (2) supersedes Section 77-18-105.]~~
11681 ~~[(3)] (4)~~(a) This section does not apply to an Internet service provider~~[-as defined in~~
11682 ~~Section 76-10-1230,]~~ if:
11683 (i) the distribution of pornographic material by the Internet service provider occurs
11684 only incidentally through the Internet service provider's function of:
11685 (A) transmitting or routing data from one person to another person; or
11686 (B) providing a connection between one person and another person;
11687 (ii) the Internet service provider does not intentionally aid or abet in the distribution
11688 of the pornographic material; and
11689 (iii) the Internet service provider does not knowingly receive funds from or through a
11690 person who distributes the pornographic material in exchange for permitting the
11691 person to distribute the pornographic material.
11692 (b) This section does not apply to a hosting company~~[-as defined in Section 76-10-1230,]~~
11693 if:
11694 (i) the distribution of pornographic material by the hosting company occurs only
11695 incidentally through the hosting company's function of providing data storage
11696 space or data caching to a person;
11697 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
11698 of the pornographic material; and
11699 (iii) the hosting company does not knowingly receive funds from or through a person
11700 who distributes the pornographic material in exchange for permitting the person to
11701 distribute, store, or cache the pornographic material.
11702 (5) Subsection (3) supersedes Section 77-18-105.
11703 Section 186. Section **76-5c-205**, which is renumbered from Section 76-10-1206 is renumbered
11704 and amended to read:

11705 ~~[76-10-1206]~~ **76-5c-205 . Distributing material harmful to minors.**

11706 [(1) A person is guilty of dealing in material harmful to minors when, knowing or
11707 believing that an individual is a minor, or having negligently failed to determine the
11708 proper age of a minor, the person intentionally:]

11709 [(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an
11710 individual whom the person believes to be a minor, any material harmful to minors;]

11711 [(b) produces, performs, or directs any performance, before a minor or an individual whom
11712 the person believes to be a minor, that is harmful to minors; or]

11713 [(c) participates in any performance, before a minor or an individual whom the person
11714 believes to be a minor, that is harmful to minors.]

11715 [(2)(a) Except as provided in Subsection (2)(b), each separate offense under this section
11716 committed by a person 18 years old or older is a third degree felony punishable by:]

11717 [(i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited
11718 up to the maximum allowed by law; and]

11719 [(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.]

11720 [(b) Each separate offense under this section committed by a person 18 years old or older
11721 against a minor 16 years old or older, but younger than 18 years old, is a class A
11722 misdemeanor if the person is less than seven years older than the minor at the time of the
11723 offense.]

11724 [(c) Each separate offense under this section committed by a person 16 or 17 years old is a
11725 class A misdemeanor.]

11726 [(d) Each separate offense under this section committed by a person younger than 16 years
11727 old is a class B misdemeanor.]

11728 [(e) Subsection (2)(a) supersedes Section 77-18-105.]

11729 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

11730 (2) An actor commits distributing material harmful to minors if the actor:

11731 (a)(i) intentionally distributes or offers to distribute, or exhibits or offers to exhibit,
11732 material harmful to minors to an individual;

11733 (ii) intentionally produces, performs, or directs any performance, before an individual
11734 that is harmful to minors; or

11735 (iii) intentionally participates in a performance before an individual that is harmful to

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- 11736 minors; and
- 11737 (b)(i) knows or believes the individual described in Subsection (2)(a) is a minor; or
- 11738 (ii) negligently fails to determine if the individual described in Subsection (2)(a) is a
- 11739 minor and the individual is a minor.
- 11740 (3)(a) Except as provided in Subsection (3)(b), (c), (d), or (e), a violation of Subsection
- 11741 (2) is a second degree felony if the actor is 18 years old or older and has previously
- 11742 been convicted or adjudicated of a violation of Subsection (2) and is subject to:
- 11743 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
- 11744 exhibited up to the maximum allowed by law; and
- 11745 (ii) incarceration, without suspension of sentence, for a term of not less than one year.
- 11746 (b) Except as provided in Subsection (3)(c), (d), or (e), a violation of Subsection (2) is a
- 11747 third degree felony if:
- 11748 (i) the actor is 18 years old or older and is subject to:
- 11749 (A) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
- 11750 exhibited up to the maximum allowed by law; and
- 11751 (B) incarceration, without suspension of sentence, for a term of not less than 14
- 11752 days; or
- 11753 (ii) the actor is younger than 18 years old and has previously been convicted of a
- 11754 violation of Subsection (2).
- 11755 (c) Except as provided in Subsection (3)(d) or (e), a violation of Subsection (2) is a class
- 11756 A misdemeanor if the actor is 18 years old or older and the minor described in
- 11757 Subsection (2) is 16 years old or older, but younger than 18 years old, and the actor is
- 11758 less than seven years older than the minor at the time of the offense.
- 11759 (d) Except as provided in Subsection (3)(e), a violation of Subsection (2) is a class A
- 11760 misdemeanor if the actor is 16 years old or 17 years old.
- 11761 (e) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than
- 11762 16 years old.
- 11763 ~~[(3)] (4)[(a) Except for a defendant described in Subsection (2)(b), if a defendant 18~~
- 11764 ~~years old or older has been previously convicted or adjudicated by the juvenile court~~
- 11765 ~~under this section, each separate subsequent offense is a second degree felony~~
- 11766 ~~punishable by:]~~

- 11767 ~~[(i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article~~
11768 ~~exhibited up to the maximum allowed by law; and]~~
- 11769 ~~[(ii) incarceration, without suspension of sentence, for a term of not less than one year.]~~
- 11770 ~~[(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years~~
11771 ~~old has been previously convicted or adjudicated by the juvenile court under this~~
11772 ~~section, each separate subsequent offense is a third-degree felony.]~~
- 11773 ~~[(e) Subsection (3)(a) supersedes Section 77-18-105.]~~
- 11774 ~~[(d)] (a)[(i)] This section does not apply to an Internet service provider[, as defined in~~
11775 ~~Section 76-10-1230], a provider of an electronic communications service as~~
11776 ~~defined in 18 U.S.C. Sec. 2510, a telecommunications service, information~~
11777 ~~service, or mobile service as defined in 47 U.S.C. Sec. 153, including a~~
11778 ~~commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable~~
11779 ~~operator as defined in 47 U.S.C. Sec. 522, if:~~
- 11780 ~~[(A)] (i) the distribution of pornographic material by the Internet service provider~~
11781 ~~occurs only incidentally through the provider's function of:~~
- 11782 ~~[(H)] (A) transmitting or routing data from one person to another person; or~~
11783 ~~[(H)] (B) providing a connection between one person and another person;~~
- 11784 ~~[(B)] (ii) the provider does not intentionally aid or abet in the distribution of the~~
11785 ~~pornographic material; and~~
- 11786 ~~[(C)] (iii) the provider does not knowingly receive from or through a person who~~
11787 ~~distributes the pornographic material a fee greater than the fee generally charged~~
11788 ~~by the provider, as a specific condition for permitting the person to distribute the~~
11789 ~~pornographic material.~~
- 11790 ~~[(ii)] (b) This section does not apply to a hosting company[, as defined in Section~~
11791 ~~76-10-1230,] if:~~
- 11792 ~~[(A)] (i) the distribution of pornographic material by the hosting company occurs only~~
11793 ~~incidentally through the hosting company's function of providing data storage~~
11794 ~~space or data caching to a person;~~
- 11795 ~~[(B)] (ii) the hosting company does not intentionally engage, aid, or abet in the~~
11796 ~~distribution of the pornographic material; and~~
- 11797 ~~[(C)] (iii) the hosting company does not knowingly receive from or through a person~~

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11798 who distributes the pornographic material a fee greater than the fee generally
11799 charged by the provider, as a specific condition for permitting the person to
11800 distribute, store, or cache the pornographic material.

11801 ~~[(4)]~~ (5) [A service provider, as defined in Section 76-10-1230,] An Internet service
11802 provider is not negligent under this section if the Internet service provider complies with
11803 Section [76-10-1231] 76-5c-402.

11804 ~~[(5) A person 18 years old or older who knowingly solicits, requests, commands,~~
11805 ~~encourages, or intentionally aids another person younger than 18 years old to engage in~~
11806 ~~conduct in violation of Subsection (1) is guilty of a third-degree felony and is subject to~~
11807 ~~the penalties under Subsection (2)(a).]~~

11808 (6) It is an affirmative defense to a prosecution for a violation of this section if the violation
11809 arises from displaying or exhibiting an outer portion of material that the material is:

11810 (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that
11811 the lower 2/3 of the material is concealed from view;

11812 (b) placed behind a blinder rack; or

11813 (c)(i) displayed in an area from which a minor is physically excluded; and

11814 (ii) the material cannot be viewed by the minor from an area where the minor is
11815 allowed.

11816 (7) Subsection (3)(a) and (3)(b)(i) supersede Section 77-18-105.

11817 Section 187. Section **76-5c-206** is enacted to read:

11818 **76-5c-206 . Aiding or abetting a minor in distributing material harmful to**
11819 **minors.**

11820 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

11821 (2) An actor commits aiding or abetting a minor in distributing material harmful to minors
11822 if:

11823 (a) the actor is 18 years old or older; and

11824 (b) the actor knowingly solicits, requests, commands, encourages, or intentionally aids a
11825 minor to:

11826 (i) intentionally distribute or offer to distribute, or exhibit or offer to exhibit, material
11827 harmful to minors to an individual;

11828 (ii) intentionally produce, perform, or direct any performance, before an individual

- 11829 that is harmful to minors; or
- 11830 (iii) intentionally participate in any performance, before an individual that is harmful
- 11831 to minors; and
- 11832 (c)(i) the minor described in Subsection (2)(b) knows or believes the individual
- 11833 described in Subsection (2)(b)(i) through (iii) is a minor; or
- 11834 (ii) the minor described in Subsection (2)(b) negligently fails to determine if the
- 11835 individual described in Subsection (2)(b)(i) through (iii) is a minor and the
- 11836 individual is a minor.
- 11837 (3) A violation of Subsection (2) is a third degree felony subject to:
- 11838 (a) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
- 11839 exhibited up to the maximum allowed by law; and
- 11840 (b) incarceration, without suspension of sentence, for a term of not less than one year
- 11841 (4)(a) This section does not apply to an Internet service provider, a provider of an
- 11842 electronic communications service as defined in 18 U.S.C. Sec. 2510, a
- 11843 telecommunications service, information service, or mobile service as defined in 47
- 11844 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec.
- 11845 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:
- 11846 (i) the distribution of pornographic material by the Internet service provider occurs
- 11847 only incidentally through the provider's function of:
- 11848 (A) transmitting or routing data from one person to another person; or
- 11849 (B) providing a connection between one person and another person;
- 11850 (ii) the provider does not intentionally aid or abet in the distribution of the
- 11851 pornographic material; and
- 11852 (iii) the provider does not knowingly receive from or through a person who
- 11853 distributes the pornographic material a fee greater than the fee generally charged
- 11854 by the provider, as a specific condition for permitting the person to distribute the
- 11855 pornographic material.
- 11856 (b) This section does not apply to a hosting company if:
- 11857 (i) the distribution of pornographic material by the hosting company occurs only
- 11858 incidentally through the hosting company's function of providing data storage
- 11859 space or data caching to a person;

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11860 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
11861 of the pornographic material; and

11862 (iii) the hosting company does not knowingly receive from or through a person who
11863 distributes the pornographic material a fee greater than the fee generally charged
11864 by the provider, as a specific condition for permitting the person to distribute,
11865 store, or cache the pornographic material.

11866 (5) An Internet service provider is not negligent under this section if the Internet service
11867 provider complies with Section 76-5c-402.

11868 (6) It is an affirmative defense to prosecution for a violation of this section if the violation
11869 arises from displaying or exhibiting an outer portion of material that the material is:

11870 (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that
11871 the lower 2/3 of the material is concealed from view;

11872 (b) placed behind a blinder rack; or

11873 (c)(i) displayed in an area from which a minor is physically excluded; and

11874 (ii) the material cannot be viewed by the minor from an area where the minor is
11875 allowed.

11876 (7) Subsection (3) supersedes Section 77-18-105.

11877 Section 188. Section **76-5c-207**, which is renumbered from Section 76-10-1228 is renumbered
11878 and amended to read:

11879 **[76-10-1228] 76-5c-207 . Indecent public display in the presence of a minor.**

11880 (1)(a) As used in this section:

11881 (i) "Description or depiction of illicit sex or sexual immorality" means:

11882 (A) human genitals in a state of sexual stimulation or arousal;

11883 (B) acts of human masturbation, sexual intercourse, or sodomy;

11884 (C) fondling or other erotic touching of human genitals or pubic region; or

11885 (D) fondling or other erotic touching of the human buttock or female breast.

11886 (ii) "Serious value" means having serious literary, artistic, political, or scientific value
11887 for minors, taking into consideration the ages of all minors who could be exposed
11888 to the material.

11889 (iii) "Nude or partially denuded figure" means:

11890 (A) less than completely and opaquely covering human:

- 11891 (I) genitals;
- 11892 (II) pubic regions;
- 11893 (III) buttocks; or
- 11894 (IV) female breasts below a point immediately above the top of the areola; or
- 11895 (B) human male genitals in a discernibly turgid state, even if completely and
- 11896 opaquely covered.

11897 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this

11898 section.

11899 ~~[(1)]~~ (2) ~~[Subject to the affirmative defense in Subsection 76-10-1208(3), a person is guilty~~

11900 ~~of a class A misdemeanor who]~~ An actor commits indecent public display in the

11901 presence of a minor if the actor willfully or knowingly:

11902 (a) engages in the business of selling, lending, giving away, showing, advertising for

11903 sale, or distributing to a minor or has in the [person's] actor's possession with intent to

11904 engage in that business or to otherwise offer for sale or commercial distribution to a

11905 minor any material with:

- 11906 (i) a description or depiction of illicit sex or sexual immorality; or
- 11907 (ii) a nude or partially denuded figure; or

11908 (b) publicly displays at [newsstands] a newsstand or [any other] another establishment

11909 frequented by minors, or where the minors are or may be invited as a part of the

11910 general public[;] :

11911 (i)(A) ~~[-any]~~ a motion picture[,-or] :

11912 (B) ~~[-any]~~ a live, taped, or recorded performance[,-or] :

11913 (C) ~~[-any]~~ a still picture or photograph[;] ; or

11914 (D) ~~[any]~~ a book, pocket book, pamphlet, or magazine[the cover or content of

11915 which:] ;and

11916 ~~[(1)]~~ (ii) the cover or content of the items described in Subsection (2)(b)(i):

11917 (A) exploits, is devoted to, or is principally made up of [one or more descriptions

11918 or depictions] a description or depiction of illicit sex or sexual immorality; or

11919 ~~[(1)]~~ (B) consists of [one or more pictures] a picture of nude or partially denuded

11920 figures.

11921 ~~[(2)]~~ (3)~~[(a)]~~ A violation of this section is [punishable by] a class A misdemeanor subject

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- 11922 to:
- 11923 [(†)] (a) a minimum mandatory fine of not less than \$500; and
- 11924 [(††)] (b) incarceration, without suspension of sentence in any way, for a term of not less
- 11925 than 30 days.
- 11926 [(b) This section supersedes Section 77-18-105.]
- 11927 (4) It is an affirmative defense to prosecution for a violation of this section if the violation
- 11928 arises from displaying or exhibiting an outer portion of material that the material is:
- 11929 (a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that
- 11930 the lower 2/3 of the material is concealed from view;
- 11931 (b) placed behind a blinder rack; or
- 11932 (c)(i) displayed in an area from which a minor is physically excluded; and
- 11933 (ii) the material cannot be viewed by the minor from an area where the minor is
- 11934 allowed.
- 11935 (5) This section does not apply to any material which, when taken as a whole, has serious
- 11936 value for minors, however, a description or depiction of illicit sex or sexual immorality
- 11937 has no serious value for minors.
- 11938 (6) This section supersedes Section 77-18-105.
- 11939 Section 189. Section **76-5c-208**, which is renumbered from Section 76-10-1235 is renumbered
- 11940 and amended to read:
- 11941 **[76-10-1235] 76-5c-208 . Creating, viewing, or accessing pornographic or indecent material**
- 11942 **on school property.**
- 11943 (1)(a) As used in this section:
- 11944 (i) "Description or depiction of illicit sex or sexual immorality" means the same as
- 11945 that term is defined in Section 76-5c-207.
- 11946 (ii) "Nude or partially denuded figure" means the same as that term is defined in
- 11947 Section 76-5c-207.
- 11948 [(a)] (iii) "Pornographic or indecent material" means any material that:
- 11949 [(†)] (A) [defined as-] is harmful to minors[in Section 76-10-1201];
- 11950 [(††)] (B) [described as-] is pornographic[in Section 76-10-1203];[or]
- 11951 [(†††)] (C) [described in Section 76-10-1227] is a description of or depiction of illicit
- 11952 sex or sexual immorality; or

- 11953 (D) contains a nude or partially denuded figure.
- 11954 ~~[(b)]~~ (iv) "School property" means property, including land and improvements, that a
11955 school district or charter school owns, leases, or occupies.
- 11956 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
11957 section.
- 11958 (2) ~~[Except as provided in Subsection (3), a person is guilty of-] Under circumstances not~~
11959 amounting to an offense listed in Subsection (4), an actor commits creating, viewing, or
11960 accessing pornographic or indecent material on school property [when] if the [person]
11961 actor willfully or knowingly creates, views, or otherwise gains access to pornographic or
11962 indecent material while present on school property[~~, under circumstances not amounting~~
11963 to an attempted or actual violation of:] .
- 11964 ~~[(a) distributing pornographic material as specified in Section 76-10-1204;]~~
11965 ~~[(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;]~~
11966 ~~[(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or]~~
11967 ~~[(d) indecent public displays as specified in Section 76-10-1228.]~~
- 11968 ~~[(3) This section does not apply to school or law enforcement personnel when the access to~~
11969 pornographic or indecent material on school property is limited to:]
- 11970 ~~[(a) investigation of a violation of this section; or]~~
11971 ~~[(b) enforcement of this section.]~~
- 11972 ~~[(4) Each separate offense under this section is:]~~
- 11973 ~~[(a) a class A misdemeanor if the person is 18 years of age or older; and]~~
11974 ~~[(b) a class B misdemeanor if the person is under 18 years of age.]~~
- 11975 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
11976 misdemeanor if the actor is 18 years old or older.
- 11977 (b) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than
11978 18 years old.
- 11979 (4) The offenses referred to in Subsection (2) are:
- 11980 (a) distributing pornographic material as described in Section 76-5c-202;
11981 (b) aiding or abetting a minor in distributing pornographic material as described in
11982 Section 76-5c-203;
- 11983 (c) inducing acceptance of pornographic material as described in Section 76-5c-204;

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- 11984 (d) distributing material harmful to minors as described in Section 76-5c-205;
11985 (e) aiding or abetting a minor in distributing material harmful to minors as described in
11986 Section 76-5c-206; or
11987 (f) indecent public display in the presence of a minor as described in Section 76-5c-207.
11988 (5) This section does not:
11989 (a) [-]prohibit disciplinary action for actions that violate this section[-]; or
11990 (b) apply to school or law enforcement personnel when the school or law enforcement
11991 personnel views or otherwise gains access to pornographic or indecent material while
11992 on school property for the limited purpose of:
11993 (i) investigating a violation of this section; or
11994 (ii) enforcing this section.

11995 Section 190. Section **76-5c-209**, which is renumbered from Section 76-10-1236 is renumbered
11996 and amended to read:

11997 **[76-10-1236]76-5c-209 . Possession of a child sex doll.**

- 11998 (1)(a) As used in this section, "child sex doll" means a doll, mannequin, or robot:
11999 [(a)] (i) [an] that is anatomically correct[-doll, mannequin, or robot], with the features
12000 of, or with features that resemble those of, a minor; and
12001 [(b)] (ii) that is intended for use in sexual acts.
12002 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
12003 section.

12004 (2) An actor commits [the offense of-]possession of a child sex doll if the actor knowingly
12005 or intentionally possesses a child sex doll.

12006 (3) A violation of Subsection (2) is a class A misdemeanor, with a mandatory fine of not
12007 less than \$2,500.

12008 Section 191. Section **76-5c-210**, which is renumbered from Section 76-10-1237 is renumbered
12009 and amended to read:

12010 **[76-10-1237]76-5c-210 . Distributing or purchasing a child sex doll.**

- 12011 (1)(a) As used in this section:
12012 [(a)] (i) "Child sex doll" means the same as that term is defined in Section [76-10-1236]
12013 76-5c-209.
12014 [(b)] (ii) "Distribute" means to sell, or with or without consideration, offer to sell,

12015 advertise, provide, ship, deliver for shipment, offer to deliver for shipment, or
12016 transfer.

12017 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
12018 section.

12019 (2) An actor commits ~~[the offense of]~~ distributing or purchasing a child sex doll if the actor
12020 knowingly, intentionally, or recklessly distributes, purchases, or offers to purchase a
12021 child sex doll.

12022 (3) A violation of Subsection (2) is a third degree felony, with a mandatory fine of not less
12023 than \$10,000.

12024 Section 192. Section **76-5c-211**, which is renumbered from Section 76-10-1238 is renumbered
12025 and amended to read:

12026 **[76-10-1238] 76-5c-211 . Deactivation of a pornography device filter on a minor's device.**

12027 ~~[(1)(a) An adult individual, other than the parent or legal guardian of the minor in~~
12028 ~~possession of a device, who intentionally disables the filter required under Section~~
12029 ~~78B-6-2602 on a device in possession of a minor for the purpose of disseminating~~
12030 ~~pornography to the minor, commits a class A misdemeanor.]~~

12031 ~~[(b) For each offense of Subsection (1)(a), the violator is subject to a fine in an amount not~~
12032 ~~to exceed \$2,500.]~~

12033 ~~[(2) A person who has a prior conviction under this section, who commits a subsequent~~
12034 ~~violation of Subsection (1)(a), is guilty of a third degree felony and shall, for each~~
12035 ~~separate offense, be fined in an amount not to exceed \$5,000 and may be imprisoned for~~
12036 ~~zero to five years.]~~

12037 (1)(a) As used in this section, "device" means the same as that term is defined in
12038 78B-6-2601.

12039 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
12040 section.

12041 (2) An actor commits deactivation of a pornography device filter on a minor's device if the
12042 actor:

12043 (a) is 18 years old or older;

12044 (b) intentionally disables the filter required under Section 78B-6-2602 that is on a device
12045 in the possession of a minor;

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- 12046 (c) disabled the filter for the purpose of disseminating pornography to the minor
12047 described in Subsection (3)(b); and
- 12048 (d) is not the parent or legal guardian of the minor described in Subsection (3)(b).
- 12049 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
12050 misdemeanor subject to a fine of not more than \$2,500.
- 12051 (b) A violation of Subsection (2) is a third degree felony subject to a fine of not more
12052 than \$5,000 if the actor has previously been convicted of a violation of Subsection (2).
- 12053 Section 193. Section **76-5c-212** is enacted to read:
- 12054 **76-5c-212 . Fee owner or intermediate lessor allowing real property to be used**
12055 **for illicit pornographic purposes.**
- 12056 (1)(a) As used in this section, "allow" means a failure to exercise the option to void the
12057 lease or other title described in Section 76-5c-105 within 10 days after the day on
12058 which the fee owner or lessor receives notice in writing from the county attorney of
12059 the county where the property is situated, or if situated in a city of the first or second
12060 class, from the city attorney of that city, that the property is being used for a purpose
12061 prohibited under this chapter.
- 12062 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this
12063 section.
- 12064 (2) An actor commits fee owner or intermediate lessor allowing real property to be used for
12065 pornographic purposes if the actor:
- 12066 (a) is a fee owner or intermediate lessor of real property;
- 12067 (b) knowingly allows the real property described in Subsection (2)(a) to be used by a
12068 tenant or occupant, or a tenant's or occupant's employee, for the purpose of
12069 distributing or exhibiting pornographic materials, or for pornographic performances;
12070 and
- 12071 (c) the tenant or occupant, or the tenant's or occupant's employee, has been convicted of
12072 a violation of this chapter for an offense that occurred on the property and all avenues
12073 of direct appeal from the conviction have been exhausted or abandoned.
- 12074 (3) A violation of Subsection (2) is a class A misdemeanor.
- 12075 (4) Any fine assessed for a conviction under this section becomes a lien upon the real
12076 property described in Subsection (2)(a), if the fine is not paid within 30 days after the

12077 day on which the judgment is entered

12078 Section 194. Section **76-5c-213** is enacted to read:

12079 **76-5c-213 . Tenant or occupant failing to exit real property after using the**
12080 **property for pornographic purposes.**

12081 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

12082 (2) An actor commits tenant or occupant failing to exit real property after using the property
12083 for pornographic purposes if the actor:

12084 (a) is a tenant or occupant of real property;

12085 (b) received notice in writing that the fee owner or intermediate lessor of the real
12086 property is exercising the option to void the lease or other title described in Section
12087 76-5c-105; and

12088 (c) does not permanently exit the premises within 10 days after the day on which the
12089 actor received the notice described in Subsection (2)(b).

12090 (3) A violation of Subsection (2) is a class A misdemeanor.

12091 Section 195. Section **76-5c-214**, which is renumbered from Section 76-10-1214 is renumbered
12092 and amended to read:

12093 **[76-10-1214] 76-5c-214 . Conspiracy to commit a pornographic or harmful materials**
violation.

12094 [~~(1)(a) A conspiracy of two or more persons to commit any offense proscribed by this part~~
12095 ~~is a third degree felony punishable for each separate offense by a minimum mandatory~~
12096 ~~fine of not less than \$1,000 and by imprisonment, without suspension of sentence in any~~
12097 ~~way, for a term of not less than 60 days.]~~

12098 [~~(b) This subsection supersedes Section 77-18-105.]~~

12099 [~~(2)(a) If a defendant has already been convicted once under this section, each separate~~
12100 ~~further offense is a second degree felony punishable by a minimum mandatory fine of~~
12101 ~~not less than \$5,000 and by imprisonment, without suspension of sentence in any way,~~
12102 ~~for a term of not less than one year.]~~

12103 [~~(b) This subsection supersedes Section 77-18-105.]~~

12104 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

12105 (2) An actor commits conspiracy to commit a pornographic or harmful materials violation if
12106 the actor conspires with two or more person to commit a violation of this chapter.

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- 12107 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
12108 degree felony subject to:
12109 (i) a minimum mandatory fine of not less than \$1,000; and
12110 (ii) incarceration, without suspension of the sentence in any way, for a term of not
12111 less than 60 days.
12112 (b) A violation of Subsection (2) is a second degree felony if the actor has previously
12113 been convicted of a violation of Subsection (2) and is subject to:
12114 (i) a minimum mandatory fine of not less than \$5,000; and
12115 (ii) incarceration, without suspension of the sentence in any way, for a term of not
12116 less than one year.
12117 (4) Subsection (3) supersedes Section 77-18-105.
12118 Section 196. Section **76-5c-301**, which is renumbered from Section 76-10-1216 is renumbered
12119 and amended to read:

12120 **Part 3. Distribution and Exhibition of Motion Picture Films**

12121 **[76-10-1216] 76-5c-301 . Definitions.**

12122 As used in this [aet] part:

- 12123 (1) "Exhibit" means to show in a public place or in a place where the public is admitted,
12124 whether or not an admission fee is charged.
12125 (2)(a) "Distributor" means [any] a person from which a film is acquired by sale, lease,
12126 loan, or any other means, directly or indirectly, for the purpose of exhibiting [it] the
12127 film in this state or elsewhere.
12128 (b) [~~but shall~~] "Distributor" does not include [any] a person whose function with respect
12129 to [any] a film is limited to the transportation or storage [~~thereof~~] of the film.
12130 (3) "Film" means what is usually known as a motion picture film and [~~which~~] that is
12131 intended to be shown commercially for profit by devices of any kind whatsoever.
12132 (4) "Person" includes [~~a natural person~~] an individual, firm, association, partnership, or
12133 corporation.
12134 (5) "Public place" includes [any] a place [~~to which~~] that admission is gained by payment of a
12135 membership or admission fee, however designated, notwithstanding it is designated as a
12136 private club or by words of like import.
12137 Section 197. Section **76-5c-302**, which is renumbered from Section 76-10-1217 is renumbered

12138 and amended to read:

12139 ~~[76-10-1217]~~ **76-5c-302 . Intent of part -- Exemptions from part.**

12140 (1) It is the intent of this [aet] part to prevent the commercial distribution and exhibition of
12141 films in this state which are pornographic.[-]

12142 (2) ~~[There-]~~ The Legislature finds that there is substantial evidence that elements of
12143 organized crime have engaged to an increasing degree in the production and distribution
12144 of [~~sueh~~] pornographic films and, therefore, it is the further intent of this [aet] part to
12145 facilitate the criminal prosecution of distributors of pornographic films.

12146 ~~[(2)]~~ (3) It is not the intent of this [aet] part to:

12147 (a) [-]limit the regulation of films by counties, cities, towns, and other political
12148 subdivisions [~~within~~] of the state, [~~and these~~] as these political subdivisions are
12149 specifically given the right by this [aet] part to further regulate films[~~- Nor is it the~~
12150 ~~intent of this act to-~~] ; or

12151 (b) limit or abridge the power to otherwise prosecute violations of any other provisions
12152 of law including[~~, but not limited to,~~] those provisions of [~~Title 76, Chapter 10, Part~~
12153 ~~12, Pornographic and Harmful Materials and Performances~~] this chapter.

12154 (4) This part does not apply to a film:

12155 (a) distributed to or exhibited by any accredited university, college, school, library, or
12156 other educational institution, church, or museum, if there is scientific, religious, or
12157 educational justification for the exhibition of the film; or

12158 (b) exhibited by the Department of Corrections or exhibited as part of any treatment
12159 program operated by or under contract with the department if the exhibition of the
12160 film is solely for the assessment or treatment of an offender as defined under Section
12161 64-13-1.

12162 Section 198. Section **76-5c-303**, which is renumbered from Section 76-10-1219 is renumbered
12163 and amended to read:

12164 ~~[76-10-1219]~~ **76-5c-303 . Qualification for distribution of films.**

12165 (1) A distributor [~~whieh~~] that is a corporation shall be qualified to distribute films within
12166 this state if:

12167 (a) [~~it-~~] the corporation is a domestic corporation in good standing or a foreign
12168 corporation authorized to transact business in this state; and

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12169 (b) ~~[it]~~ the corporation submits ~~[itself]~~ the corporation to the jurisdiction and laws of this
12170 state relating to being a distributor in this state.

12171 (2) A distributor which is not a corporation shall be qualified to distribute films within this
12172 state if:

12173 (a) ~~[it]~~ the distributor has and continuously maintains a registered office in this state; and

12174 (b) ~~[it]~~ the distributor has a registered agent whose business address is at that registered
12175 office and which is either an individual residing and domiciled in this state, a
12176 domestic corporation in good standing, or a foreign corporation authorized to transact
12177 business in this state.

12178 (3) This section ~~[shall]~~ does not affect the right to serve ~~[any]~~ process, a notice, or a
12179 demand, required or permitted by law to be served upon a distributor, in any other
12180 manner provided by law.

12181 Section 199. Section **76-5c-304**, which is renumbered from Section 76-10-1220 is renumbered
12182 and amended to read:

12183 **~~[76-10-1220]~~76-5c-304 . Change of registered office or agent by film distributor -- Service of**
12184 **process, notice, or demand on registered agent.**

12185 (1) A distributor qualified to distribute films in this state may change ~~[its]~~ the
12186 distributor's registered office or registered agent in accordance with Title 16, Chapter 17,
12187 Model Registered Agents Act.

12188 (2) Any process, notice, or demand required or permitted by law to be served upon the
12189 distributor may be served upon the registered agent of that distributor.

12190 Section 200. Section **76-5c-305**, which is renumbered from Section 76-10-1222 is renumbered
12191 and amended to read:

12192 **~~[76-10-1222]~~76-5c-305 . Distribution of a pornographic film for exhibition.**

12193 ~~[(1) Any person who knowingly or by criminal negligence distributes for exhibition within~~
12194 ~~this state a film which is pornographic as that term is defined in the Utah criminal code~~
12195 ~~shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined~~
12196 ~~not less than \$1,000 and imprisoned, without suspension of sentence in any way, for a~~
12197 ~~term of not less than 60 days.]~~

12198 ~~[(2) Any person convicted of a violation of this section who has been convicted before of a~~
12199 ~~violation of this section, shall be guilty of a felony of the third degree and shall, for each~~

12200 separate offense, be fined not less than \$5,000 and imprisoned, without suspension of
12201 sentence in any way, for a term of not less than six months.]

12202 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

12203 (2) An actor commits distribution of a pornographic film for exhibition if the actor
12204 knowingly or with criminal negligence distributes a film for exhibition that is
12205 pornographic.

12206 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
12207 misdemeanor subject to:

12208 (i) a fine not less than \$1,000; and

12209 (ii) incarceration, without suspension of sentence in any way, for a term of not less
12210 than 60 days.

12211 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
12212 convicted of a violation of Subsection (2) and is subject to:

12213 (i) a fine not less than \$5,000; and

12214 (ii) incarceration, without suspension of sentence in any way, for a term of not less
12215 than six months.

12216 (4) It is an affirmative defense to a prosecution under this section that the distribution or
12217 exhibition of a film is exempt from the restrictions of this part described in Section
12218 76-5c-302.

12219 (5) It is not a defense to a prosecution under this section that the actor was a motion picture
12220 projectionist or was otherwise required by the actor's employment to commit the
12221 violation.

12222 [~~3~~] (6) Each copy of a pornographic film distributed for exhibition [~~within this state~~] in
12223 violation of this section [~~shall constitute~~] is a separate offense.

12224 Section 201. Section **76-5c-306**, which is renumbered from Section 76-10-1223 is renumbered
12225 and amended to read:

12226 **[76-10-1223]76-5c-306 . Distributing a film without being qualified.**

12227 [(1) Any person who knowingly distributes any film for exhibition within this state without
12228 being qualified to do so, or who knowingly exhibits a film in this state which has not
12229 been acquired from a distributor qualified to distribute films in this state is guilty of a
12230 class B misdemeanor and shall, for each separate offense, be fined not less than \$299

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12231 and imprisoned, without suspension of sentence in any way, for a term of not less than
12232 30 days.]

12233 [~~(2) Any person convicted of a violation of this section, who has been convicted before of~~
12234 ~~a violation of this section, shall be guilty of a class A misdemeanor and shall, for each~~
12235 ~~separate offense, be fined not less than \$1,000 and imprisoned, without suspension of~~
12236 ~~sentence in any way, for a term of not less than 60 days:]~~

12237 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

12238 (2) An actor commits distributing a film without being qualified if the actor knowingly:

12239 (a) distributes a film for exhibition; and

12240 (b) is not qualified to distribute a film for exhibition.

12241 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
12242 misdemeanor subject to:

12243 (i) a fine not less than \$299; and

12244 (ii) incarceration, without suspension of sentence in any way, for a term of not less
12245 than 30 days.

12246 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
12247 been convicted of a violation of Subsection (2) and is subject to:

12248 (i) a fine not less than \$1,000; and

12249 (ii) incarceration, without suspension of sentence in any way, for a term of not less
12250 than 60 days.

12251 (4) It is an affirmative defense to a prosecution under this section that the distribution of a
12252 film is exempt from the restrictions of this part described in Section 76-5c-302.

12253 (5) It is not a defense to a prosecution under this section that the actor was a motion picture
12254 projectionist or was otherwise required by the actor's employment to commit the
12255 violation.

12256 [~~(3)~~] (6) Each day's exhibition of [~~such~~] a film, and each copy of a film distributed for
12257 exhibition[~~within this state, shall constitute~~] in violation of this section is a separate
12258 offense.

12259 Section 202. Section **76-5c-307** is enacted to read:

12260 **76-5c-307 . Improperly exhibiting a film.**

12261 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

- 12262 (2) An actor commits improperly exhibiting a film if the actor knowingly:
12263 (a) exhibits a film; and
12264 (b) did not acquire the film from a distributor qualified to distribute a film.
12265 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
12266 misdemeanor subject to:
12267 (i) a fine not less than \$299; and
12268 (ii) incarceration, without suspension of sentence in any way, for a term of not less
12269 than 30 days.
12270 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
12271 been convicted of a violation of Subsection (2) and is subject to:
12272 (i) a fine not less than \$1,000; and
12273 (ii) incarceration, without suspension of sentence in any way, for a term of not less
12274 than 60 days.
12275 (4) It is an affirmative defense to a prosecution under this section that the distribution or
12276 exhibition of a film is exempt from the restrictions of this part described in Section
12277 76-5c-302.
12278 (5) It is not a defense to a prosecution under this section that the actor was a motion picture
12279 projectionist or was otherwise required by the actor's employment to commit the
12280 violation.
12281 (6) Each day's exhibition of a film exhibited in violation of this section is a separate offense.
12282 Section 203. Section **76-5c-401**, which is renumbered from Section 76-10-1230 is renumbered
12283 and amended to read:

12284 **Part 4. Requirements and Penalties for Content and Internet Providers**

12285 **[76-10-1230] 76-5c-401 . Definitions.**

12286 As used in [~~Sections 76-10-1231 and 76-10-1233~~] this part:

- 12287 (1) "Consumer" means an individual residing in this state who subscribes to a service
12288 provided by a service provider for personal or residential use.
12289 (2) "Content provider" means a person domiciled in Utah or that generates or hosts content
12290 in Utah, and that creates, collects, acquires, or organizes electronic data for electronic
12291 delivery to a consumer with the intent of making a profit.
12292 (3)(a) "Hosting company" means a person that provides services or facilities for storing

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12293 or distributing content over the Internet without editorial or creative alteration of the
12294 content.

12295 (b) A hosting company may have policies concerning acceptable use without becoming
12296 a content provider under Subsection (2).

12297 (4) "Internet service provider" means a person engaged in the business of providing
12298 broadband Internet access service, with the intent of making a profit, to consumers in
12299 Utah.

12300 (5) "Properly rated" means content using a labeling system to label material harmful to
12301 minors provided by the content provider in a way that:

12302 (a) accurately appraises a consumer of the presence of material harmful to minors; and

12303 (b) allows the consumer the ability to control access to material harmful to minors based
12304 on the material's rating by use of reasonably priced commercially available software,
12305 including software in the public domain.

12306 (6) "Restrict" means to limit access to material harmful to minors by:

12307 (a) properly rating content; or

12308 (b) any other reasonable measures feasible under available technology.

12309 (7)(a) [~~Except as provided in Subsection (7)(b), "service provider"~~] "Service provider"
12310 means an Internet service provider.

12311 (b) "Service provider" does not include a person who does not terminate a service in this
12312 state, but merely transmits data through:

12313 (i) a wire;

12314 (ii) a cable; or

12315 (iii) an antenna.

12316 (c) "Service provider," notwithstanding Subsection (7)(b), includes a person who [~~meets~~
12317 ~~the requirements of Subsection (7)(a) and~~]leases or rents a wire or cable for the
12318 transmission of data.

12319 Section 204. Section **76-5c-402**, which is renumbered from Section 76-10-1231 is renumbered
12320 and amended to read:

12321 **[76-10-1231] 76-5c-402 . Data service providers -- Internet content harmful to minors.**

12322 (1)(a) Upon request by a consumer, a service provider shall filter content to prevent the
12323 transmission of material harmful to minors to the consumer.

- 12324 (b) A service provider complies with Subsection (1)(a) if the service provider makes a
12325 good faith effort to apply a generally accepted and commercially reasonable method
12326 of filtering.
- 12327 (c) At the time of a consumer's subscription to a service provider's service, the service
12328 provider shall notify the consumer in a conspicuous manner that the consumer may
12329 request to have material harmful to minors blocked under Subsection (1)(a).
- 12330 (2) The Division of Consumer Protection within the Department of Commerce shall:
- 12331 (a) every other year request from each service provider information on how the service
12332 provider complies with Subsection (1)(a);
- 12333 (b) publish on the division's website a compilation of the information the division
12334 receives under Subsection (2)(a); and
- 12335 (c) update the compilation described in Subsection (2)(b) every other year.
- 12336 (3)(a) A service provider may comply with Subsection (1)(a) by providing in-network
12337 filtering to prevent the receipt of material harmful to minors, provided that the
12338 filtering does not affect or interfere with access to Internet content for consumers
12339 who do not request filtering under Subsection (1)(a).
- 12340 (b) A service provider may comply with Subsection (1)(a) by engaging a third party to
12341 provide or referring a consumer to a third party that provides a commercially
12342 reasonable method of filtering to block the receipt of material harmful to minors.
- 12343 (c) A service provider may charge a consumer a commercially reasonable fee for
12344 providing filtering under this Subsection (3).
- 12345 (4) If the attorney general determines that a service provider violates Subsection (1), the
12346 attorney general shall:
- 12347 (a) notify the service provider that the service provider is in violation of Subsection (1);
12348 and
- 12349 (b) notify the service provider that the service provider has 90 days to comply with the
12350 provision being violated or be subject to the civil penalties described in Subsection (5).
- 12351 (5)(a) A service provider that intentionally or knowingly violates Subsection (1)(a) is
12352 subject to a civil fine of \$2,500 for each separate violation of Subsection (1)(a), up to
12353 \$15,000 per day.
- 12354 (b) A service provider that intentionally or knowingly violates Subsection (1)(c) is

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12355 subject to a civil fine up to \$10,000.

12356 (6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the
12357 attorney general~~[in a court of competent jurisdiction]~~.

12358 Section 205. Section **76-5c-403**, which is renumbered from Section 76-10-1233 is renumbered
12359 and amended to read:

12360 ~~[76-10-1233]~~ **76-5c-403 . Content providers -- Material harmful to minors.**

12361 (1) A content provider that is domiciled in Utah, or generates or hosts content in Utah, shall
12362 restrict access to material harmful to minors.

12363 (2) If the attorney general determines that a content provider violates Subsection (1), the
12364 attorney general shall:

12365 (a) notify the content provider that the content provider is in violation of Subsection (1);
12366 and

12367 (b) notify the content provider that the content provider has 30 days to comply with
12368 Subsection (1) or be subject to the civil penalties described in Subsection (3).

12369 (3)(a) If a content provider intentionally or knowingly violates this section more than 30
12370 days after receiving the notice provided under Subsection (2), the content provider is
12371 subject to a civil fine of \$2,500 for each separate violation of Subsection (1), up to
12372 \$10,000 per day.

12373 (b) A proceeding to impose the civil fine under this section may be brought only by the [
12374 state] attorney general~~[and shall be brought in a court of competent jurisdiction]~~.

12375 (4) The Division of Consumer Protection shall make rules in accordance with Title 63G,
12376 Chapter 3, Utah Administrative Rulemaking Act, to establish acceptable rating methods
12377 to be implemented by a content provider under Subsection (1).

12378 Section 206. Section **76-5d-101**, which is renumbered from Section 76-10-1301 is renumbered
12379 and amended to read:

12380 **CHAPTER 5d. PROSTITUTION**

12381 **Part 1. General Provisions**

12382 ~~[76-10-1301]~~ **76-5d-101 . Definitions.**

12383 As used in this ~~[part]~~ chapter:

12384 (1) "Child" is an individual younger than 18 years old.

- 12385 (2) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV)
12386 infection determined by current medical standards and detected by any of the following:
12387 (a) presence of antibodies to HIV, verified by a positive confirmatory test, such as
12388 Western blot with an interpretation based on criteria currently recommended by the
12389 Association of State and Territorial Public Health Laboratory Directors or another
12390 confirmatory test approved by the Utah State Health Laboratory;
12391 (b) presence of HIV antigen;
12392 (c) isolation of HIV; or
12393 (d) demonstration of HIV proviral DNA.
12394 (3) "HIV positive individual" means an individual who has an HIV infection.
12395 (4) "Local law enforcement agency" means the agency responsible for investigation of the
12396 violations of Sections 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, and
12397 76-5d-210, the filing of charges which may lead to conviction, and the conducting of or
12398 obtaining the results of tests for HIV infection.
12399 [~~(2) "Place of prostitution" means a place or business where prostitution or promotion of~~
12400 ~~prostitution is arranged, regularly carried on, or attempted by one or more individuals~~
12401 ~~under the control, management, or supervision of another.]
12402 (5) "Positive" means an indication of the HIV infection.
12403 [~~(3) "Prostitute" or "prostituted individual" means an individual engaged in an activity~~
12404 ~~described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f).]
12405 [~~(4)~~ (6) "Public place" means a place to which the public or any substantial group of the
12406 public has access.
12407 [~~(5)~~ (7) "Sexual activity" means, regardless of the gender of either participant:
12408 (a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of
12409 one individual and the mouth or anus of another individual; or
12410 (b) the touching of the genitals, female breast, or anus of one individual with any other
12411 body part of another individual with the intent to sexually arouse or gratify either
12412 individual.
12413 (8) "Test" means a test for HIV infection in accordance with standards recommended by the
12414 Department of Health.
12415 Section 207. Section **76-5d-102**, which is renumbered from Section 76-10-1307 is renumbered~~~~

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12416 and amended to read:

12417 **[76-10-1307]76-5d-102 . Local ordinance consistent with code provisions.**

12418 An ordinance adopted by a local authority governing prostitution or aiding
12419 prostitution ~~[shall]~~ that address the matters covered by this chapter are required to be
12420 consistent with the provisions of this ~~[part]~~ chapter which govern ~~[those matters]~~
12421 prostitution or aiding prostitution.

12422 Section 208. Section **76-5d-103**, which is renumbered from Section 76-10-1311 is renumbered
12423 and amended to read:

12424 **[76-10-1311]76-5d-103 . Mandatory testing -- Retention of offender medical file -- Civil**
12425 **liability.**

12426 (1) ~~[A person]~~ An individual who has entered a plea of guilty, a plea of no contest, a plea of
12427 guilty with a mental condition, or been found guilty for violation of Section ~~[76-10-1302,~~
12428 ~~76-10-1303, or 76-10-1313 shall be-]~~ 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205,
12429 76-5d-209, or 76-5d-210 is required to submit to a mandatory test conducted before
12430 sentencing to determine if the ~~[offender]~~ individual is an HIV positive individual.~~[-The~~
12431 ~~mandatory test shall be required and conducted prior to sentencing.-]~~

12432 (2) If the mandatory test described in Subsection (1) has not been conducted ~~[prior to]~~ before
12433 sentencing, and the convicted ~~[offender]~~ actor is already confined in a county jail or state
12434 prison, ~~[such person shall-]~~ the individual is required to be tested while in confinement.

12435 (3) ~~[The]~~ For an individual described in Subsection (1) who is confined in a county jail the
12436 local law enforcement agency shall cause the blood specimen of the offender [as defined
12437 in Subsection (1) confined in county jail] to be taken and tested.

12438 (4) ~~[The-]~~ For an individual described in Subsection (1) who is confined in a state prison the
12439 Department of Corrections shall cause the blood specimen of the offender [defined in
12440 Subsection (1) confined in any state prison] to be taken and tested.

12441 (5) The local law enforcement agency shall collect and retain in the ~~[offender's]~~ individual's
12442 medical file the following data:

- 12443 (a) the HIV infection test results;
- 12444 (b) a copy of the written notice as provided in Section ~~[76-10-1312]~~ 76-5d-104;
- 12445 (c) photographic identification; and
- 12446 (d) fingerprint identification.

- 12447 (6) The local law enforcement agency shall classify the medical file as a private record
12448 pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section
12449 63G-2-304.
- 12450 (7)(a) ~~[The person tested shall be]~~ An individual required to be tested under this
12451 section is responsible for the costs of testing, unless the [person] individual is indigent.[
12452]
- 12453 (b) ~~[The costs will then]~~ If an individual is indigent the costs for the testing will be paid
12454 by the local law enforcement agency or the Department of Corrections from the
12455 General Fund.
- 12456 (8)(a) The laboratory performing testing shall report test results to only designated
12457 officials in the Department of Corrections, the Department of Health and Human
12458 Services, and the local law enforcement agency submitting the blood specimen.
- 12459 (b) Each department or agency shall designate those officials by written policy.
- 12460 (c) Designated officials may release information identifying an ~~[offender]~~ individual
12461 under Section [76-10-1302, 76-10-1303, or 76-10-1313] 76-5d-202, 76-5d-203,
12462 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who has tested HIV positive as
12463 provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to
12464 Section ~~[76-10-1309]~~ 76-5d-211.
- 12465 (9)(a) An employee of the local law enforcement agency, the Department of
12466 Corrections, or the Department of Health and Human Services who discloses the HIV
12467 test results under this section is not civilly liable except when disclosure constitutes
12468 fraud or willful misconduct ~~[as provided in]~~ under Section 63G-7-202.
- 12469 (b) An employee of the local law enforcement agency, the Department of Corrections, or
12470 the Department of Health and Human Services who discloses the HIV test results
12471 under this section is not civilly or criminally liable, except when disclosure
12472 constitutes a knowing violation of Section 63G-2-801.
- 12473 (10) When ~~[the]~~ a medical file is released as provided in Section 63G-2-803, the local law
12474 enforcement agency, the Department of Corrections, or the Department of Health and
12475 Human Services or ~~[its officers or employees]~~ an officer or employee of the local law
12476 enforcement agency, the Department of Corrections, or the Department of Health and
12477 Human Services are not liable for damages for release of the medical file.

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12478 Section 209. Section **76-5d-104**, which is renumbered from Section 76-10-1312 is renumbered
12479 and amended to read:

12480 ~~[76-10-1312]~~ **76-5d-104 . Notice to a convicted individual of HIV positive test results.**

12481 (1) ~~[A person]~~ An individual convicted under Section ~~[76-10-1302, 76-10-1303, or~~
12482 ~~76-10-1313]~~ 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who
12483 has tested positive for the HIV infection shall be notified of the test results in person by:

12484 (a) the local law enforcement agency;

12485 (b) the Department of Corrections, for offenders confined in ~~[any]~~ a state prison;

12486 (c) the ~~[state-]~~Department of Health and Human Services; or

12487 (d) an authorized representative of ~~[any of the agencies]~~ an agency listed in ~~[this~~

12488 ~~Subsection (1)]~~ Subsection (1)(a) through (c).

12489 (2) The notice ~~[under]~~ described in Subsection (1) shall contain the signature of the HIV
12490 positive ~~[person]~~ individual, indicating the ~~[person's]~~ individual's receipt of the notice, the
12491 name and signature of the ~~[person]~~ individual providing the notice, and:

12492 (a) the date of the test;

12493 (b) the positive test results;

12494 (c) the name of the HIV positive individual; and

12495 (d) the following language:

12496 ~~["A person]~~ "An individual who has been convicted of prostitution under Section [
12497 ~~76-10-1302]~~ 76-5d-202, patronizing a ~~[prostitute]~~ prostituted individual under Section [
12498 ~~76-10-1303]~~ 76-5d-203, patronizing a child involved in prostitution under Section 76-5d-204,
12499 entering or remaining in a place of prostitution under Section 76-5d-205, ~~[or]~~sexual
12500 solicitation under Section ~~[76-10-1313]~~ 76-5d-209, or sexual solicitation of a child under
12501 Section 76-5d-210 after being tested and diagnosed as an HIV positive individual and either
12502 had actual knowledge that the ~~[person]~~ individual is an HIV positive individual or the ~~[person]~~
12503 individual has previously been convicted of any of the criminal offenses listed above is guilty
12504 of a third degree felony under Section ~~[76-10-1309]~~ 76-5d-211."

12505 (3) Failure to provide ~~[this notice]~~ the notice described in Subsection (1), or to provide the
12506 notice in the manner or form prescribed under this section, does not:

12507 (a) ~~[-]create any civil liability[-and does not]~~ ; or

12508 (b) ~~[-]create a defense to any prosecution under this [part]~~ chapter.

12509 (4) Upon conviction under Section [~~76-10-1309~~] 76-5d-211, and as a condition of probation,
12510 the [~~offender~~] actor shall receive treatment and counseling for HIV infection and drug
12511 abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental
12512 Health.

12513 Section 210. Section **76-5d-105**, which is renumbered from Section 76-10-1314 is renumbered
12514 and amended to read:

12515 ~~[76-10-1314]~~ **76-5d-105 . Examination of testing procedures and results in legal proceedings.**

12516 (1) Employees of [~~the~~] a laboratory who conduct laboratory analysis of blood samples for
12517 presence of antibody to HIV provided pursuant to a request by a law enforcement
12518 agency or the Department of Corrections under Section [~~76-10-1311~~] 76-5d-103, may be
12519 examined in a legal proceeding of any kind or character as to:

- 12520 (a) the nature of the testing;
- 12521 (b) the validity of the testing;
- 12522 (c) the results of the test;
- 12523 (d) the HIV positivity or negativity of the [~~person~~] individual tested;
- 12524 (e) the evidentiary chain of custody; and
- 12525 (f) other factors relevant to the prosecution, subject to the court's ruling.

12526 (2) This section applies only to the criminal investigation and prosecution under Section [
12527 ~~76-10-1309~~] 76-5d-211 which permits enhanced penalties upon a subsequent conviction
12528 for:

- 12529 (a) prostitution[;] as described in Section [~~76-10-1302~~] 76-5d-202;
- 12530 (b) patronizing a [~~prostitute;~~] prostituted individual as described in Section [~~76-10-1303~~
12531 76-5d-203];~~[or]~~
- 12532 (c) patronizing a child involved in prostitution as described in Section 76-5d-204;
- 12533 (d) entering or remaining in a place of prostitution as described in Section 76-5d-205;
- 12534 [~~(e)~~] (e) sexual solicitation[;] as described in Section [~~76-10-1313~~] 76-5d-209; or
- 12535 (f) sexual solicitation of a child as described in Section 76-5d-210.

12536 Section 211. Section **76-5d-106**, which is renumbered from Section 76-10-1315 is renumbered
12537 and amended to read:

12538 ~~[76-10-1315]~~ **76-5d-106 . Safe harbor for children as victims in commercial sex or sexual**
12539 **solicitation.**

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- 12540 (1) As used in this section:
- 12541 (a) "Child engaged in commercial sex" means a child who:
- 12542 (i) engages, offers, or agrees to engage in any sexual activity with another individual
- 12543 for a fee, or the functional equivalent of a fee;
- 12544 (ii) takes steps in arranging a meeting through any form of advertising, agreeing to
- 12545 meet, and meeting at an arranged place for the purpose of sexual activity in
- 12546 exchange for a fee or the functional equivalent of a fee; or
- 12547 (iii) loiters in or within view of any public place for the purpose of being hired to
- 12548 engage in sexual activity.
- 12549 (b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit
- 12550 or engage in any sexual activity with another person for a fee, or the functional
- 12551 equivalent of a fee, under Subsection [76-10-1313(1)(a)] 76-5d-209(2)(a), (c), (d), or
- 12552 (f).
- 12553 (c) "Division" means the Division of Child and Family Services created in Section
- 12554 80-2-201.
- 12555 (d) "Juvenile receiving center" means the same as that term is defined in Section
- 12556 80-1-102.
- 12557 (2) Upon encountering a child engaged in commercial sex or a child engaged in sexual
- 12558 solicitation, a law enforcement officer shall:
- 12559 (a) conduct an investigation regarding possible human trafficking of the child pursuant
- 12560 to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;
- 12561 (b) refer the child to the division;
- 12562 (c) bring the child to a juvenile receiving center, if available; and
- 12563 (d) contact the child's parent or guardian, if practicable.
- 12564 (3) When law enforcement refers a child to the division under Subsection (2)(b) the
- 12565 division shall provide services to the child under Title 80, Chapter 2, Child Welfare
- 12566 Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.
- 12567 [~~(4) A child may not be subjected to delinquency proceedings for prostitution under~~
- 12568 ~~Section 76-10-1302, or sexual solicitation under Section 76-10-1313.]~~
- 12569 Section 212. Section **76-5d-201** is enacted to read:
- 12570

Part 2. General Offenses

12571 **76-5d-201 . Definitions.**

12572 As used in this part:

12573 (1) "Place of prostitution" means a place or business where prostitution or promotion of
12574 prostitution is arranged, regularly carried on, or attempted by one or more individuals
12575 under the control, management, or supervision of another individual.

12576 (2) "Prostituted individual" means an individual engaged in a prohibited activity described
12577 in Section 76-5d-202 or Subsection 76-5d-209(2)(b)(i), (iii), (iv), or (vi).

12578 Section 213. Section **76-5d-202**, which is renumbered from Section 76-10-1302 is renumbered
12579 and amended to read:

12580 **[76-10-1302]76-5d-202 . Prostitution.**

12581 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12582 ~~[(1)]~~ (2) An actor~~[, except for a child under Section 76-10-1315, is guilty of]~~ commits
12583 prostitution if the actor:

12584 (a) [-] is 18 years old or older; and

12585 (b) engages in sexual activity with another individual for a fee, or the functional
12586 equivalent of a fee.

12587 ~~[(2)]~~ (3)(a) Except as provided in Subsection ~~[(2)(b)]~~ and Section 76-10-1309] (3)(b), a
12588 violation of Subsection ~~[(1)]~~ (2) is a class B misdemeanor.

12589 (b) ~~[Except as provided in Section 76-10-1309, an actor who is convicted a second time,~~
12590 ~~and on all subsequent convictions, of a subsequent offense of prostitution under this~~
12591 ~~section or]~~ A violation of Subsection (2) is a class A misdemeanor if the actor has
12592 previously been convicted of:

12593 (i) a violation of Subsection (2); or

12594 (ii) ~~[-under]a local ordinance adopted [under] in accordance with Section [76-10-1307,~~
12595 ~~is guilty of a class A misdemeanor]~~ 76-5d-102 addressing the same or similar type
12596 of violation to the violation described in Subsection (2).

12597 ~~[(3)]~~ (4) A prosecutor may not prosecute an actor for a violation of Subsection ~~[(1)]~~ (2) if the
12598 actor engages in a violation of Subsection ~~[(1)]~~ (2) at or near the time the actor witnesses
12599 or is a victim of any of the following offenses, or an attempt to commit any of the
12600 following offenses, and the actor reports the offense or attempt to law enforcement in
12601 good faith:

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- 12602 (a) assault[;] as described in Section 76-5-102;
- 12603 (b) aggravated assault[;] as described in Section 76-5-103;
- 12604 (c) mayhem[;] as described in Section 76-5-105;
- 12605 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
- 12606 homicide, or homicide by assault [~~under~~] as described in Chapter 5, Part 2, Criminal
- 12607 Homicide;
- 12608 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
- 12609 aggravated human trafficking, human smuggling or aggravated human smuggling, or
- 12610 human trafficking of a child [~~under~~] as described in Chapter 5, Part 3, Kidnapping,
- 12611 Trafficking, and Smuggling;
- 12612 (f) rape[;] as described in Section 76-5-402;
- 12613 (g) rape of a child[;] as described in Section 76-5-402.1;
- 12614 (h) object rape[;] as described in Section 76-5-402.2;
- 12615 (i) object rape of a child[;] as described in Section 76-5-402.3;
- 12616 (j) forcible sodomy[;] as described in Section 76-5-403;
- 12617 (k) sodomy on a child[;] as described in Section 76-5-403.1;
- 12618 (l) forcible sexual abuse[;] as described in Section 76-5-404;
- 12619 (m) sexual abuse of a child[;] as described in Section 76-5-404.1, or aggravated sexual
- 12620 abuse of a child, Section 76-5-404.3;
- 12621 (n) aggravated sexual assault[;] as described in Section 76-5-405;
- 12622 (o) sexual exploitation of a minor[;] as described in Section 76-5b-201;
- 12623 (p) aggravated sexual exploitation of a minor[;] as described in Section 76-5b-201.1;
- 12624 (q) sexual exploitation of a vulnerable adult[;] as described in Section 76-5b-202;
- 12625 (r) [~~aggravated burglary or~~] burglary of a dwelling [~~under Chapter 6, Part 2, Burglary~~
- 12626 ~~and Criminal Trespass~~] as described in Subsection 76-6-202(3)(b);
- 12627 (s) aggravated burglary as described in Section 76-6-203;
- 12628 [(s)] (t) [~~aggravated robbery or~~] robbery [~~under Chapter 6, Part 3, Robbery~~] as described
- 12629 in Section 76-6-301;
- 12630 (u) aggravated robbery as described in Section 76-6-302; or
- 12631 [(t)] (v) theft by extortion [~~under~~] as described in Section 76-6-406 under the
- 12632 circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

12633 (5) A violation under this section that is a class A misdemeanor may be prosecuted by an
12634 attorney of a city or a town as well as by prosecutors authorized in the code to prosecute
12635 a violation under this section.

12636 Section 214. Section **76-5d-203**, which is renumbered from Section 76-10-1303 is renumbered
12637 and amended to read:

12638 **[76-10-1303] 76-5d-203 . Patronizing a prostituted individual.**

12639 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12640 ~~[(1)]~~ (2) An actor [is guilty of] commits patronizing a [prostitute if the actor] prostituted
12641 individual if:

12642 (a) the actor pays[~~or~~] , offers to pay, or agrees to pay a [prostituted individual] prostituted
12643 individual, or an individual the actor believes to be a [prostituted individual]
12644 prostituted individual, a fee, or the functional equivalent of a fee[;] ; and

12645 (b) the payment, offer of payment, or agreement for payment described in Subsection
12646 (2)(a) is for the purpose of engaging in an act of sexual activity[;~~or~~] .

12647 ~~[(b) enters or remains in a place of prostitution for the purpose of engaging in sexual~~
12648 ~~activity.]~~

12649 ~~[(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection~~
12650 ~~(3), (4), or (5) or Section 76-10-1309.]~~

12651 ~~[(3) A violation of this section that is preceded by a conviction under this section or a~~
12652 ~~conviction under a local ordinance adopted under Section 76-10-1307 is a class A~~
12653 ~~misdemeanor.]~~

12654 ~~[(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307~~
12655 ~~is a third degree felony.]~~

12656 ~~[(5)(a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under~~
12657 ~~Subsection (1)(a) involves a child as the other individual, a violation of Subsection~~
12658 ~~(1)(a) is a second degree felony.]~~

12659 ~~[(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under~~
12660 ~~Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or~~
12661 ~~older at the time of the offense or was unaware of the individual's true age.]~~

12662 ~~[(c) An actor's belief that the individual was under 18 years old at the time of the offense,~~
12663 ~~even if the individual was 18 years old or older, is a violation of Subsection (5)(a).]~~

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12664 [(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a
12665 greater penalty under another provision of state law than is provided under Subsection
12666 (5)(a), this Subsection (5) does not prohibit prosecution and sentencing for the more
12667 serious offense.]

12668 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
12669 misdemeanor.

12670 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
12671 convicted two or more times of:

12672 (i) a violation of Subsection (2); or

12673 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
12674 same or similar type of violation to the violation described in Subsection (2).

12675 [(6)] (4) Upon a conviction for a violation of this section, the court shall order:

12676 (a) the maximum fine amount and may not waive or suspend the fine; and

12677 (b) the [defendant] actor to pay for and complete a court-approved educational program
12678 about the negative effects on an individual involved with prostitution or human
12679 trafficking.

12680 Section 215. Section **76-5d-204** is enacted to read:

12681 **76-5d-204 . Patronizing a child involved in prostitution.**

12682 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12683 (2) An actor commits patronizing a child involved in prostitution if:

12684 (a) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an
12685 individual the actor believes to be a prostituted individual, a fee, or the functional
12686 equivalent of a fee;

12687 (b) the payment, offer of payment, or agreement for payment described in Subsection
12688 (2)(a) is for the purpose of engaging in an act of sexual activity; and

12689 (c) the prostituted individual, or the individual the actor believes to be a prostituted
12690 individual, described in Subsection (2)(a) is:

12691 (i) a child; or

12692 (ii) believed by the actor to be a child.

12693 (3) A violation of Subsection (2) is a second degree felony.

12694 (4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this

12695 section that the actor mistakenly believed the individual described in Subsection (2) to
12696 be 18 years old or older at the time of the offense or was unaware of the individual's true
12697 age.

12698 (5) If the act committed under Subsection (2) amounts to an offense that is subject to a
12699 greater penalty under another provision of law this section does not prohibit prosecution
12700 and sentencing for the more serious offense.

12701 (6) Upon a conviction for a violation of this section, the court shall order:

12702 (a) the maximum fine amount and may not waive or suspend the fine; and

12703 (b) the actor to pay for and complete a court-approved educational program about the
12704 negative effects on an individual involved with prostitution or human trafficking.

12705 Section 216. Section **76-5d-205** is enacted to read:

12706 **76-5d-205 . Entering or remaining in a place of prostitution.**

12707 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12708 (2) An actor commits entering or remaining in a place of prostitution if the actor enters or
12709 remains in a place of prostitution for the purpose of engaging in sexual activity.

12710 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
12711 misdemeanor.

12712 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
12713 convicted two or more times of:

12714 (i) a violation of Subsection (2); or

12715 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
12716 same or similar type of violation to the violation described in Subsection (2).

12717 (4) Upon a conviction for a violation of this section, the court shall order:

12718 (a) the maximum fine amount and may not waive or suspend the fine; and

12719 (b) the actor to pay for and complete a court-approved educational program about the
12720 negative effects on an individual involved with prostitution or human trafficking.

12721 Section 217. Section **76-5d-206**, which is renumbered from Section 76-10-1304 is renumbered
12722 and amended to read:

12723 **[76-10-1304] 76-5d-206 . Aiding prostitution.**

12724 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12725 [(1)] (2) An [individual is guilty of] actor commits aiding prostitution if the [individual] actor:

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- 12726 (a)(i) solicits an individual to patronize a [~~prostitute~~] prostituted individual, or to
12727 patronize an individual the actor believes to be a [~~prostitute~~] prostituted individual;
- 12728 (ii) procures or attempts to procure a [~~prostitute~~] prostituted individual, or an
12729 individual the actor believes to be a [~~prostitute~~] prostituted individual, for a patron;
- 12730 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
12731 association with another individual, to be used for prostitution or the promotion of
12732 prostitution; or
- 12733 (iv) provides [~~any~~] a service or commits [~~any~~] an act that enables another individual to
12734 commit a violation of [~~this Subsection (1)(a)~~] this Subsection (2) or facilitates
12735 another individual's ability to commit [~~any~~] a violation of [~~this Subsection (1)(a)~~]
12736 this Subsection (2); or
- 12737 (b) solicits, receives, or agrees to receive [~~any~~] a benefit for committing any of the acts
12738 prohibited by Subsection [~~(1)(a)~~] (2)(a).
- 12739 [~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~
- 12740 [~~(3) An individual who is convicted a second time, and on all subsequent convictions,~~
12741 ~~under this section or under a local ordinance adopted in compliance with Section~~
12742 ~~76-10-1307 is guilty of a third degree felony.]~~
- 12743 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
12744 misdemeanor.
- 12745 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
12746 convicted of:
- 12747 (i) a violation of Subsection (2); or
- 12748 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
12749 same or similar type of violation to the violation described in Subsection (2).
- 12750 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine
12751 amount and may not waive or suspend the fine.
- 12752 (5) A violation under this section that is a class A misdemeanor may be prosecuted by an
12753 attorney of a city or a town as well as by prosecutors authorized in the code to prosecute
12754 a violation under this section.
- 12755 Section 218. Section **76-5d-207**, which is renumbered from Section 76-10-1305 is renumbered
12756 and amended to read:

12757 **~~[76-10-1305]~~76-5d-207 . Exploitation of prostitution.**

12758 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12759 ~~[(1)]~~ (2) An ~~[individual is guilty of exploiting]~~ actor commits exploitation of prostitution if
12760 the ~~[individual]~~ actor:

12761 (a) procures an individual for a place of prostitution;

12762 (b) encourages, induces, or otherwise purposely causes another individual to become or
12763 remain a ~~[prostitute]~~ prostituted individual;

12764 (c) transports an individual into or within this state with [a] the purpose to promote [that]
12765 the individual's ~~[engaging]~~ engagement in prostitution;

12766 ~~(d)~~ [~~-or procuring or paying for~~] procures or pays for an individual's transportation with [
12767 that] the purpose of promoting the individual's engagement in prostitution;

12768 ~~[(d)]~~ (e) not being a child or legal dependent of a ~~[prostitute]~~ prostituted individual, shares
12769 the proceeds of prostitution with a ~~[prostitute]~~ prostituted individual, or an individual
12770 the actor believes to be a ~~[prostitute]~~ prostituted individual, pursuant to [their] the
12771 actor's and the prostituted individual's understanding that the actor is to share [therein]
12772 in the proceeds of the prostitution; or

12773 ~~[(e)]~~ (f) owns, controls, manages, supervises, or otherwise keeps, alone or in association
12774 with another individual, a place of prostitution or a business where prostitution
12775 occurs or is arranged, encouraged, supported, or promoted.

12776 ~~[(2)]~~ (3) [~~Exploiting prostitution is a felony of the]~~ A violation of Subsection (2) is a third
12777 degree felony.

12778 ~~[(3)]~~ (4) Upon a conviction for a violation of this section, the court shall order the maximum
12779 fine amount and may not waive or suspend the fine.

12780 Section 219. Section **76-5d-208**, which is renumbered from Section 76-10-1306 is renumbered
12781 and amended to read:

12782 **~~[76-10-1306]~~76-5d-208 . Aggravated exploitation of prostitution.**

12783 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12784 ~~[(1)]~~ (2) [~~A person is guilty of]~~ An actor commits aggravated exploitation of prostitution if:

12785 (a) in committing an act of ~~[exploiting]~~ exploitation of prostitution[~~, as defined in]~~ as
12786 described in Section ~~[76-10-1305]~~ 76-5d-207, the ~~[person]~~ actor uses any force, threat,
12787 or fear against any ~~[person]~~ individual;

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12788 (b) the [person] individual whom the actor procured, transported, or persuaded, or with
12789 whom the [person] actor shares the proceeds of prostitution, is a child or is the spouse
12790 of the actor; or

12791 (c) in the course of committing an act of exploitation of prostitution~~[, a violation of~~
12792 Section 76-10-1305] as described in Section 76-5d-207, the [person] actor commits
12793 human trafficking or human smuggling~~[, a]~~ in violation of Section 76-5-308,
12794 76-5-308.1, 76-5-308.3, or 76-5-308.5.

12795 ~~[(2)]~~ ~~(3)(a) [Aggravated exploitation of prostitution]~~ Except as provided in Subsection
12796 (3)(b), a violation of Subsection (2) is a second degree felony~~[, except under~~
12797 Subsection (3)].

12798 ~~[(3)]~~ ~~(b) [Aggravated exploitation of prostitution involving a child]~~ A violation of
12799 Subsection (2) is a first degree felony if the violation involves a child.

12800 (4) Upon a conviction for a violation of this section, the court shall order the maximum fine
12801 amount and may not waive or suspend the fine.

12802 Section 220. Section **76-5d-209**, which is renumbered from Section 76-10-1313 is renumbered
12803 and amended to read:

12804 **[76-10-1313]76-5d-209 . Sexual solicitation.**

12805 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12806 ~~[(1)]~~ (2) An ~~[individual except for a child under Section 76-10-1315 is guilty of]~~ actor
12807 commits sexual solicitation if the [individual] actor:

12808 (a) is 18 years old or older; and

12809 ~~[(a)]~~ (b)(i) offers or agrees to commit any sexual activity with another individual for
12810 a fee, or the functional equivalent of a fee;

12811 ~~[(b)]~~ (ii) pays, [or] offers to pay, or agrees to pay a fee, or the functional equivalent of
12812 a fee, to another individual to commit any sexual activity;

12813 ~~[(c)]~~ (iii)(A) takes steps to arrange a meeting with another individual through any
12814 form of advertising or agreement to meet[, and] ;

12815 (B) [-] meets the individual at an arranged place; and

12816 (C) [-] arranged and met the individual for the purpose of being hired to engage in
12817 sexual activity in exchange for a fee, or the functional equivalent of a fee;

12818 ~~[(d)]~~ (iv) loiters in, or within view of, a public place for the purpose of being hired to

12819 engage in sexual activity in exchange for a fee, or the functional equivalent of a
12820 fee;

12821 [(e)] (v) with intent to pay another individual to commit any sexual activity for a fee,
12822 or the functional equivalent of a fee, requests or directs the [øther-]individual to
12823 engage in any of the following acts:

12824 [(i)] (A) exposure of an individual's genitals, the buttocks, the anus, the pubic area,
12825 or the female breast below the top of the areola;

12826 [(ii)] (B) masturbation;

12827 [(iii)] (C) touching of an individual's genitals, the buttocks, the anus, the pubic
12828 area, or the female breast; or

12829 [(iv)] (D) any act of lewdness; or

12830 [(f)] (vi) with intent to engage in sexual activity for a fee, or the functional equivalent
12831 of a fee, engages in, or offers or agrees to engage in, an act described in
12832 Subsection [(1)(e)(i)] (2)(b)(v)(A) through [(iv)] (D).

12833 [(2) An intent to engage in sexual activity for a fee may be inferred from an individual's
12834 engaging in, offering or agreeing to engage in, or requesting or directing another to
12835 engage in any of the acts described in Subsection (1) (e) or (f) under the totality of the
12836 existing circumstances.]

12837 (3)(a) [~~Except as provided in Section 76-10-1309 and Subsections (4) and (5), a~~] A
12838 violation of Subsection [(1)(a)] (2)(a), (c), (d), or (f) or under a local ordinance
12839 adopted in compliance with Section [~~76-10-1307~~] 76-5d-102 is:

12840 [(a)] (i) a class B misdemeanor on a first or second violation; [~~and~~] or

12841 [(b)] (ii) a class A misdemeanor on a third or subsequent violation.

12842 [(4)] (b) [~~Except as provided in Section 76-10-1309 and Subsections (5) and (8), a~~] A
12843 violation of Subsection [(1)(b)] (2)(b) or (e) or a local ordinance adopted under
12844 Section [~~76-10-1307~~] 76-5d-102 is:

12845 [(a)] (i) a class A misdemeanor on the first or second violation; [~~and~~] or

12846 [(b)] (ii) a third degree felony on a third or subsequent violation.

12847 [(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and
12848 the individual solicited is a child, the offense is a second degree felony if the solicitation
12849 does not amount to a violation of:]

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12850 [~~(a) Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3,~~
12851 ~~human smuggling; or]~~

12852 [~~(b) Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated~~
12853 ~~human smuggling.]~~

12854 (4) An intent to engage in sexual activity for a fee may be inferred from an actor engaging
12855 in, offering or agreeing to engage in, or requesting or directing another to engage in any
12856 of the acts described in Subsection (2)(e) or (f) under the totality of the existing
12857 circumstances.

12858 [~~(6)] (5)(a) Upon encountering a child engaged in commercial sex or a child engaged in
12859 sexual solicitation, a law enforcement officer shall follow the procedure described in
12860 Subsection [~~76-10-1315(2)] 76-5d-106(2).~~~~

12861 (b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be
12862 referred to the Division of Child and Family Services for services and may not be
12863 subjected to delinquency proceedings.

12864 [~~(7)] (6) A prosecutor may not prosecute an [~~individual]~~ actor for a violation of Subsection [~~(1)]~~
12865 ~~(2) if the [~~individual]~~ actor engages in a violation of Subsection [~~(1)] (2) at or near the~~
12866 ~~time the [~~individual]~~ actor witnesses or is a victim of any of the offenses, or an attempt to~~
12867 ~~commit any of the offenses, described in Subsection [~~76-10-1302(3)] 76-5d-202(4), and~~
12868 ~~the individual reports the offense or attempt to law enforcement in good faith.~~~~~~~~

12869 [~~(8)] (7)(a) As part of a sentence imposed under Subsection [~~(3)] (3)(a), the court may~~
12870 lower, waive, or suspend a fine if the [~~defendant]~~ actor completes a court-approved
12871 program that provides information or services intended to help an individual no
12872 longer engage in prostitution.~~

12873 (b) As part of a sentence imposed under Subsection [~~(4)] (3)(b), the court shall order the [~~(4)]~~
12874 ~~defendant]~~ actor to pay for and complete a court-approved educational program about
12875 the negative effects on an individual involved with prostitution or human trafficking.~~

12876 Section 221. Section **76-5d-210** is enacted to read:

12877 **76-5d-210 . Sexual solicitation of a child.**

12878 (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

12879 (2) Under circumstances not amounting to an offense described in Subsection (4), an actor
12880 commits sexual solicitation of a child if the actor:

- 12881 (a) is 18 years old or older; and
- 12882 (b)(i) offers or agrees to commit any sexual activity with a child for a fee, or the
- 12883 functional equivalent of a fee;
- 12884 (ii) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to
- 12885 a child to commit any sexual activity;
- 12886 (iii)(A) takes steps to arrange a meeting with a child through any form of
- 12887 advertising or agreement to meet;
- 12888 (B) meets the child at an arranged place; and
- 12889 (C) arranged and met the child for the purpose of being hired to engage in sexual
- 12890 activity in exchange for a fee, or the functional equivalent of a fee;
- 12891 (iv) loiters in, or within view of, a public place for the purpose of being hired to
- 12892 engage in sexual activity with a child in exchange for a fee, or the functional
- 12893 equivalent of a fee;
- 12894 (v) with intent to pay a child to commit any sexual activity for a fee, or the functional
- 12895 equivalent of a fee, requests or directs the child to engage in any of the following
- 12896 acts:
- 12897 (A) exposure of the child's genitals, the buttocks, the anus, the pubic area, or the
- 12898 female breast below the top of the areola;
- 12899 (B) masturbation;
- 12900 (C) touching of the child's genitals, the buttocks, the anus, the pubic area, or the
- 12901 female breast; or
- 12902 (D) any act of lewdness; or
- 12903 (vi) with intent to engage in sexual activity with a child for a fee, or the functional
- 12904 equivalent of a fee, engages in, or offers or agrees to engage in, an act described in
- 12905 Subsection (2)(b)(v)(A) through (D).
- 12906 (3) A violation of Subsection (2) is a second degree felony.
- 12907 (4) The offenses referred to in Subsection (2) are:
- 12908 (a) human trafficking for labor as described in Section 76-5-308;
- 12909 (b) human trafficking for sexual exploitation as described in Section 76-5-308.1;
- 12910 (c) human smuggling as described in Section 76-5-308.3;
- 12911 (d) human trafficking of a child as described in 76-5-308.5;

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- 12912 (e) aggravated human trafficking as described in Section 76-5-310; and
12913 (f) aggravated human smuggling as described in Section 76-5-310.1.
- 12914 (5)(a) Upon encountering a child engaged in commercial sex or a child engaged in
12915 sexual solicitation, a law enforcement officer shall follow the procedure described in
12916 Subsection 76-5d-106(2).
- 12917 (b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be
12918 referred to the Division of Child and Family Services for services and may not be
12919 subjected to delinquency proceedings.
- 12920 (6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor
12921 engages in a violation of Subsection (2) at or near the time the actor witnesses or is a
12922 victim of any of the offenses, or an attempt to commit any of the offenses, described in
12923 Subsection 76-5d-202(4), and the individual reports the offense or attempt to law
12924 enforcement in good faith.
- 12925 (7) This section does not apply to a child under Section 76-5d-106.
- 12926 Section 222. Section **76-5d-211**, which is renumbered from Section 76-10-1309 is renumbered
12927 and amended to read:
- 12928 **[76-10-1309]76-5d-211 . Enhanced penalties for HIV positive actor.**
- 12929 [A person] An actor who is convicted of prostitution [under] as described in
12930 Section [76-10-1302] 76-5d-202, patronizing a [prostitute under] a prostituted individual
12931 as described in Section [76-10-1303] 76-5d-203, patronizing a child involved in
12932 prostitution as described in Section 76-5d-204, entering or remaining in a place of
12933 prostitution as described in Section 76-5d-205, or sexual solicitation [under] as described
12934 in Section [76-10-1313] 76-5d-209 or 76-5d-210 is guilty of a third degree felony if at
12935 the time of the offense the [person] actor is an HIV positive individual, and the [person]
12936 actor:
- 12937 (1) has actual knowledge [of the fact] that the actor is an HIV positive individual; or
12938 (2) has previously been convicted under Section [76-10-1302, 76-10-1303, or 76-10-1313]
12939 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210.
- 12940 Section 223. Section **76-6-105** is amended to read:
- 12941 **76-6-105 . Causing a catastrophe -- Penalties.**
- 12942 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

- 12943 (2) An actor commits causing a catastrophe if the actor causes widespread injury or damage
12944 to persons or property by:
- 12945 (a) use of a weapon of mass destruction as defined in Section [~~76-10-401~~] 76-15-301; or
12946 (b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or
12947 destructive force or substance that is not a weapon of mass destruction.
- 12948 (3) A violation of Subsection (2) is:
- 12949 (a) a first degree felony if the actor causes the catastrophe knowingly and by the use of a
12950 weapon of mass destruction;
- 12951 (b) a second degree felony if the actor causes the catastrophe knowingly and by a means
12952 other than a weapon of mass destruction; and
- 12953 (c) a class A misdemeanor if the actor causes the catastrophe recklessly.
- 12954 (4) In addition to any other penalty authorized by law, a court shall order an actor convicted
12955 of any violation of this section to reimburse any federal, state, or local unit of
12956 government, or any private business, organization, individual, or entity for all expenses
12957 incurred in responding to the violation, unless the court states on the record the reasons
12958 why the reimbursement would be inappropriate.

12959 Section 224. Section **76-6-206** is amended to read:

12960 **76-6-206 . Criminal trespass.**

- 12961 (1)(a) As used in this section:
- 12962 (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.
12963 (ii) "Graffiti" means the same as that term is defined in Section 76-6-101.
12964 (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means
12965 remaining on or over private property when:
- 12966 (A) the private property or any portion of the private property is not open to the
12967 public; and
- 12968 (B) the person operating the unmanned aircraft is not otherwise authorized to fly
12969 the unmanned aircraft over the private property or any portion of the private
12970 property.
- 12971 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- 12972 (2) An actor commits criminal trespass if, under circumstances not amounting to burglary
12973 as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section [

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- 12974 ~~76-10-2402~~ 76-9-113 regarding commercial obstruction or 76-9-114 regarding
12975 aggravated commercial obstruction:
- 12976 (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and
12977 remain unlawfully over property and:
- 12978 (i) intends to cause annoyance or injury to any person or damage to any property,
12979 including the use of graffiti;
- 12980 (ii) intends to commit any crime, other than theft or a felony; or
12981 (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause
12982 fear for the safety of another;
- 12983 (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor
12984 enters or remains on or causes an unmanned aircraft to enter or remain unlawfully
12985 over property to which notice against entering is given by:
- 12986 (i) personal communication to the actor by the owner or someone with apparent
12987 authority to act for the owner;
- 12988 (ii) fencing or other enclosure obviously designed to exclude intruders; or
12989 (iii) posting of signs reasonably likely to come to the attention of intruders;
- 12990 (c) the actor enters a condominium unit in violation of Section 57-8-7(8); or
12991 (d) the actor enters a sex-designated changing room in violation of Subsection
12992 63G-31-302(3).
- 12993 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) , (b), or
12994 (d) is a class B misdemeanor.
- 12995 (b) The following is a class A misdemeanor:
- 12996 (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;
- 12997 (ii) if a violation of Subsection (2)(d) is committed while also committing the offense
12998 of:
- 12999 (A) lewdness under Section [~~76-9-702~~] 76-5-419;
- 13000 (B) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420;
- 13001 (C) voyeurism under Section [~~76-9-702.7~~] 76-12-306;
- 13002 (D) recorded or photographed voyeurism under Section 76-12-307;
- 13003 (E) distribution of images obtained through voyeurism under Section 76-12-308;
- 13004 or

13005 ~~(D)~~ (F) loitering in a privacy space under Section ~~[76-9-702.8]~~ 76-12-309; or
13006 (iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy
13007 space, as defined in Section ~~[76-9-702.8]~~ 76-12-309, that is not designated for
13008 individuals of the actor's sex.

13009 (c) A violation of Subsection (2)(c) is an infraction.

13010 (4) It is a defense to prosecution under this section that:

13011 (a) the property was at the time open to the public; and

13012 (b) the defendant complied with all lawful conditions imposed on access to or remaining
13013 on the property.

13014 (5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a
13015 violation of Subsection (2) may also be liable for:

13016 (a) statutory damages in the amount of three times the value of damages resulting from
13017 the violation of Subsection (2) or \$500, whichever is greater; and

13018 (b) reasonable attorney fees not to exceed \$250, and court costs.

13019 (6) Civil damages under Subsection (5) may be collected in a separate action by the
13020 property owner or the owner's assignee.

13021 Section 225. Section **76-6-207**, which is renumbered from Section 76-10-2002 is renumbered
13022 and amended to read:

13023 **~~76-10-2002~~ 76-6-207 . Burglary of a research facility -- Penalties.**

13024 (1)(a) As used in this section:

13025 (i) "Building," in addition to its commonly-accepted meaning, means any watercraft,
13026 aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight
13027 accommodations of individuals or for carrying on business and includes:

13028 (A) each separately secured or occupied portion of the building or vehicle; and

13029 (B) each structure appurtenant or connected to the building or vehicle.

13030 (ii) "Enter" means:

13031 (A) an intrusion of any part of the body; or

13032 (B) the intrusion of any physical object, sound wave, light ray, electronic signal,
13033 or other means of intrusion under the control of the actor.

13034 (iii) "Research" means studious and serious inquiry, examination, investigation, or
13035 experimentation aimed at the discovery, examination, or accumulation of facts,

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13036 data, devices, theories, technologies, or applications done for any public,
13037 governmental, proprietorial, or teaching purpose.
13038 (iv) "Research facility" means a building, or separately secured yard, pad, pond,
13039 laboratory, pasture, pen, or corral which is not open to the public, the major use of
13040 which is to conduct research, to house research subjects, to store supplies,
13041 equipment, samples, specimens, records, data, prototypes, or other property used
13042 in or generated from research.

13043 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

13044 ~~[(1)]~~ (2) ~~[A person is guilty of-]~~ An actor commits burglary of a research facility if [he] the
13045 actor enters or remains unlawfully in a research facility with the intent to:

13046 (a) obtain unauthorized control over any property, sample, specimen, record, data, test
13047 result, or proprietary information in the facility;

13048 (b) alter or eradicate any sample, specimen, record, data, test result, or proprietary
13049 information in the facility;

13050 (c) damage, deface, or destroy any property in the facility;

13051 (d) release from confinement or remove any animal or biological vector in the facility
13052 regardless of whether or not that animal or vector is dangerous;

13053 (e) commit an assault on ~~[any person]~~ an individual;

13054 (f) commit any other felony; or

13055 (g) interfere with the personnel or operations of a research facility through ~~[any-]~~conduct
13056 that does not constitute an assault.

13057 ~~[(2) A person who violates Subsection (1)(g) is guilty of a class A misdemeanor. A person~~
13058 ~~who violates any other provision in this section is guilty of a felony of the second degree.]~~

13059 (3)(a) A violation of Subsection (2)(g) is a class A misdemeanor.

13060 (b) A violation of Subsection (2)(a), (b), (c), (d), (e), or (f) is a second degree felony.

13061 Section 226. Section **76-6-414** is amended to read:

13062 **76-6-414 . Theft resulting in economic interruption.**

13063 (1)(a) As used in this section:

13064 (i) "Business" means the same as that term is defined in Section 76-6-113.

13065 (ii) "Governmental entity" means the same as that term is defined in Section 76-6-113.

13066 (iii) "Economic interruption" means the same as that term is defined in Section

- 13067 76-6-113.
- 13068 (b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.
- 13069 (2) An actor commits theft resulting in economic interruption if:
- 13070 (a) the actor intentionally, knowingly, recklessly, or negligently obtains or exercises
- 13071 unauthorized control over a business's or governmental entity's property with the
- 13072 intent to deprive the business or governmental entity of the property; and
- 13073 (b) the actor's actions under Subsection (2)(a) cause an economic interruption for the
- 13074 business or governmental entity.
- 13075 [~~(3) A violation of Subsection (2) is a class A misdemeanor.~~]
- 13076 (3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a
- 13077 class A misdemeanor;
- 13078 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third
- 13079 degree felony if the actor has two prior convictions for a violation of Subsection (2)
- 13080 within five years before the day on which the actor committed the most recent
- 13081 violation of Subsection (2).
- 13082 (c) A violation of Subsection (2) is a second degree felony if the actor has at least three
- 13083 prior convictions for a violation of Subsection (2) within five years before the day on
- 13084 which the actor committed the most recent violation of Subsection (2).
- 13085 (4) It is not a defense under this section that the actor did not know that the victim is a
- 13086 business or governmental entity.
- 13087 [~~(5) If the trier of facts finds that the actor committed a violation of Subsection (2), the~~
- 13088 ~~actor is guilty of:]~~
- 13089 [~~(a) a third degree felony if the actor has two prior convictions for a violation of~~
- 13090 ~~Subsection (2) within five years before the day on which the actor committed the most~~
- 13091 ~~recent violation of Subsection (2); and]~~
- 13092 [~~(b) a second degree felony if the actor has at least three prior convictions for a violation of~~
- 13093 ~~Subsection (2) within five years before the day on which the actor committed the most~~
- 13094 ~~recent violation of Subsection (2).]~~
- 13095 [~~(6)] (5) A prior conviction used for a penalty enhancement under Subsection [~~(5)] (3)(b) or~~~~
- 13096 (c) is a conviction that is from a separate criminal episode than:
- 13097 (a) the most recent violation of Subsection (2); and

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13098 (b) any other prior conviction that is used to enhance the penalty for the most recent
13099 violation of Subsection (2).

13100 ~~[(7)]~~ (6) The prosecuting attorney, or the grand jury if an indictment is returned, shall
13101 include notice in the information or indictment that the offense is subject to an
13102 enhancement under Subsection ~~[(5)]~~ (3)(b) or (c).

13103 Section 227. Section **76-6-525**, which is renumbered from Section 76-10-1801 is renumbered
13104 and amended to read:

13105 **~~76-10-1801~~76-6-525 . Communications fraud.**

13106 (1)(a) As used in this section, "sensitive personal identifying information" means
13107 information regarding an individual's:

13108 (i) social security number;

13109 (ii) driver license number or other government-issued identification number;

13110 (iii) financial account number or credit or debit card number;

13111 (iv) password or personal identification number or other identification required to
13112 gain access to a financial account or a secure website;

13113 (v) automated or electronic signature;

13114 (vi) unique biometric data; or

13115 (vii) any other information that can be used to gain access to an individual's financial
13116 accounts or to obtain goods or services.

13117 (b) Terms defined in Section 76-1-101.5 apply to this section.

13118 (2) ~~[Any person who]~~ An actor commits communications fraud if the actor has devised any
13119 scheme or artifice to defraud another or to obtain from another money, property, or
13120 anything of value by means of false or fraudulent pretenses, representations, promises,
13121 or material omissions, and who communicates directly or indirectly with any person by
13122 any means for the purpose of executing or concealing the scheme or artifice.

13123 (3) A violation of Subsection (2) is~~[guilty of]~~:

13124 (a) a class B misdemeanor when the value of the property, money, or thing obtained or
13125 sought to be obtained is less than \$500;

13126 (b) a class A misdemeanor when the value of the property, money, or thing obtained or
13127 sought to be obtained is or exceeds \$500 but is less than \$1,500;

13128 (c) a third degree felony when the value of the property, money, or thing obtained or

- 13129 sought to be obtained is or exceeds \$1,500 but is less than \$5,000;
- 13130 (d) a second degree felony when the value of the property, money, or thing obtained or
- 13131 sought to be obtained is or exceeds \$5,000; and
- 13132 (e) a second degree felony when the object or purpose of the scheme or artifice to
- 13133 defraud is the obtaining of sensitive personal identifying information, regardless of
- 13134 the value.
- 13135 ~~[(2)]~~ (4) The determination of the degree of ~~[any]~~ an offense under Subsection ~~[(1) shall be]~~
- 13136 (2) is measured by the total value of all property, money, or things obtained or sought to
- 13137 be obtained by the scheme or artifice described in Subsection ~~[(1)]~~ (2) except as provided
- 13138 in Subsection ~~[(1)(e)]~~ (3)(e).
- 13139 ~~[(3)]~~ (5)(a) Reliance on the part of any person is not a necessary element of the offense
- 13140 described in Subsection ~~[(1)]~~ (2).
- 13141 ~~[(4)]~~ (b) An intent on the part of the ~~[perpetrator]~~ actor of any offense described in
- 13142 Subsection ~~[(1)]~~ (2) to permanently deprive any person of property, money, or thing
- 13143 of value is not a necessary element of the offense.
- 13144 ~~[(5)]~~ (c) Each separate communication made for the purpose of executing or concealing a
- 13145 scheme or artifice described in Subsection ~~[(1)]~~ (2) is a separate act and offense of
- 13146 communication fraud.
- 13147 (6)(a) To communicate as described in Subsection ~~[(1)]~~ (2) means to:
- 13148 (i) bestow, convey, make known, recount, or impart;
- 13149 (ii) give by way of information;
- 13150 (iii) talk over; or
- 13151 (iv) transmit information.
- 13152 (b) Means of communication include use of the mail, telephone, telegraph, radio,
- 13153 television, newspaper, computer, and spoken and written communication.
- 13154 (7) ~~[A person]~~ An actor may not be convicted under this section unless the pretenses,
- 13155 representations, promises, or material omissions made or omitted were made or omitted
- 13156 intentionally, knowingly, or with a reckless disregard for the truth.
- 13157 ~~[(8) As used in this section, "sensitive personal identifying information" means~~
- 13158 ~~information regarding an individual's:]~~
- 13159 ~~[(a) Social Security number;]~~

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- 13160 [~~(b) driver's license number or other government issued identification number;~~]
- 13161 [~~(e) financial account number or credit or debit card number;~~]
- 13162 [~~(d) password or personal identification number or other identification required to gain~~
- 13163 ~~access to a financial account or a secure website;~~]
- 13164 [~~(e) automated or electronic signature;~~]
- 13165 [~~(f) unique biometric data; or~~]
- 13166 [~~(g) any other information that can be used to gain access to an individual's financial~~
- 13167 ~~accounts or to obtain goods or services.]~~

13168 Section 228. Section **76-6-703.3** is amended to read:

13169 **76-6-703.3 . Unlawful use of technology to defraud.**

- 13170 (1)(a) As used in this section, "sensitive personal identifying information" means the
- 13171 same as that term is defined in Section [~~76-10-1801~~] 76-6-525.
- 13172 (b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.
- 13173 (2) An actor commits unlawful use of technology to defraud if the actor uses or knowingly
- 13174 allows another person to use a computer, computer network, computer property, or
- 13175 computer system, program, or software to devise or execute any artifice or scheme to
- 13176 defraud or to obtain money, property, a service, or other thing of value by a false
- 13177 pretense, promise, or representation.
- 13178 (3) A violation of Subsection (2) is:
- 13179 (a) a class B misdemeanor if the value of the money, property, service, or thing obtained
- 13180 or sought to be obtained is less than \$500;
- 13181 (b) a class A misdemeanor if the value of the money, property, service, or thing obtained
- 13182 or sought to be obtained is or exceeds \$500 but is less than \$1,500;
- 13183 (c) a third degree felony if the value of the money, property, service, or thing obtained or
- 13184 sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or
- 13185 (d) a second degree felony if:
- 13186 (i) the value of the money, property, service, or thing obtained or sought to be
- 13187 obtained is or exceeds \$5,000; or
- 13188 (ii) the object or purpose of the artifice or scheme to defraud is the obtaining of
- 13189 sensitive personal identifying information, regardless of the value.
- 13190 (4)(a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing

13191 in this section may be construed to impose liability or culpability on, an interactive
13192 computer service for content provided by another person.
13193 (b) This section does not affect, limit, or apply to any activity or conduct that is
13194 protected by the constitution or laws of this state, or by the constitution or laws of the
13195 United States.

13196 (5)(a) An interactive computer service is not guilty of violating this section if a person
13197 violates this section using the interactive computer service and the interactive
13198 computer service did not knowingly assist the person to commit the violation.

13199 (b) A service provider is not guilty of violating this section for:

13200 (i) action taken in relation to a customer of the service provider, for a legitimate
13201 business purpose, to install software on, monitor, or interact with the customer's
13202 Internet or other network connection, service, or computer for network or
13203 computer security purposes, authentication, diagnostics, technical support,
13204 maintenance, repair, network management, updates of computer software or
13205 system firmware, or remote system management; or

13206 (ii) action taken, including scanning and removing computer software, to detect or
13207 prevent the following:

13208 (A) unauthorized or fraudulent use of a network, service, or computer software;

13209 (B) illegal activity; or

13210 (C) infringement of intellectual property rights.

13211 Section 229. Section **76-6-703.7** is amended to read:

13212 **76-6-703.7 . Unlawful computer access.**

13213 (1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

13214 (2) An actor commits unlawful computer access if:

13215 (a) the actor intentionally or knowingly, and without authorization, gains or attempts to
13216 gain access to a computer, computer network, computer property, or computer
13217 system; and

13218 (b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense
13219 under Section 76-6-703, [~~76-6-703.1,~~]76-6-703.3, [~~or~~]76-6-703.5, or 76-12-205.

13220 (3) A violation of Subsection (2) is a class B misdemeanor.

13221 (4)(a) Notwithstanding Subsection (2), a retailer that uses an electronic product

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- 13222 identification or tracking system, or other technology, to identify, track, or price
13223 goods is not guilty of a violation of this section if the equipment designed to read the
13224 electronic product identification or tracking system data and used by the retailer to
13225 identify, track, or price goods is located within the retailer's location.
- 13226 (b) It is an affirmative defense to a violation under this section that the actor obtained
13227 access or attempted to obtain access:
- 13228 (i) in response to, and for the purpose of protecting against or investigating, a prior
13229 attempted or successful breach of security of computer technology whose security
13230 the actor is authorized or entitled to protect, and the access attempted or obtained
13231 was no greater than reasonably necessary for that purpose; or
- 13232 (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a
13233 search warrant.
- 13234 (c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in
13235 this section may be construed to impose liability or culpability on, an interactive
13236 computer service for content provided by another person.
- 13237 (d) This section does not affect, limit, or apply to any activity or conduct that is
13238 protected by the constitution or laws of this state, or by the constitution or laws of the
13239 United States.
- 13240 (5)(a) An interactive computer service is not guilty of violating this section if an actor
13241 violates this section using the interactive computer service and the interactive
13242 computer service did not knowingly assist the actor to commit the violation.
- 13243 (b) A service provider is not guilty of violating this section for:
- 13244 (i) action taken in relation to a customer of the service provider, for a legitimate
13245 business purpose, to install software on, monitor, or interact with the customer's
13246 Internet or other network connection, service, or computer for network or
13247 computer security purposes, authentication, diagnostics, technical support,
13248 maintenance, repair, network management, updates of computer software or
13249 system firmware, or remote system management; or
- 13250 (ii) action taken, including scanning and removing computer software, to detect or
13251 prevent the following:
- 13252 (A) unauthorized or fraudulent use of a network, service, or computer software;

- 13253 (B) illegal activity; or
- 13254 (C) infringement of intellectual property rights.

13255 Section 230. Section **76-6-705** is amended to read:

13256 **76-6-705 . Reporting violations.**

13257 (1) Each person who has reason to believe that a provision of Section 76-6-703, ~~[76-6-703.1,~~
13258 ~~]76-6-703.3, 76-6-703.5, [or]76-6-703.7, or 76-12-205~~ is being or has been violated
13259 shall report the suspected violation to:

- 13260 (a) the attorney general, or county attorney, or, if within a prosecution district, the
13261 district attorney of the county or prosecution district in which part or all of the
13262 violation occurred; or
- 13263 (b) a state or local law enforcement agency.

13264 (2) Subsection (1) does not apply to the extent that the person is prohibited from reporting
13265 by a statutory or common law privilege.

13266 Section 231. Section **76-6-1202** is amended to read:

13267 **76-6-1202 . Definitions.**

13268 As used in this part:

13269 (1) "Mortgage lending process" means the process through which a person seeks or obtains
13270 a mortgage loan, including solicitation, application, or origination, negotiation of terms,
13271 third-party provider services, underwriting, signing and closing, and funding of the loan.

13272 (2) "Mortgage loan":

- 13273 (a) means a loan or agreement made to extend credit to a person when the loan is
13274 secured by a deed, security deed, mortgage, security interest, deed of trust, or other
13275 document representing a security interest or lien upon any interest in one-to-four
13276 family residential property; and

13277 (b) includes the renewal or refinancing of any loan.

13278 (3) "Pattern of unlawful activity" ~~[has the same definition as]~~ means the same as that term is
13279 defined in Section [76-10-1602] 76-17-401.

13280 (4) "Sensitive personal identifying information" includes:

13281 (a) the following information regarding an individual's:

- 13282 (i) Social Security number;
- 13283 (ii) driver license number or other government issued identification number;

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- 13284 (iii) financial account number or credit or debit card number;
- 13285 (iv) password or personal identification number or other identification required to
- 13286 gain access to a financial account or a secure website;
- 13287 (v) automated or electronic signature; and
- 13288 (vi) unique biometric data; and
- 13289 (b) any other information that can be used to gain access to an individual's financial
- 13290 accounts or to obtain goods or services.

13291 (5) "Value" means the value of the property, money, or thing obtained or sought to be
13292 obtained.

13293 Section 232. Section **76-7-101** is amended to read:

13294 **76-7-101 . Bigamy.**

13295 (1) An individual is guilty of bigamy if:

- 13296 (a) the individual purports to marry another individual; and
- 13297 (b) knows or reasonably should know that one or both of the individuals described in
- 13298 Subsection (1)(a) are legally married to another individual.

13299 (2) An individual who violates Subsection (1) is guilty of an infraction.

13300 (3) An individual is guilty of a third degree felony if the individual induces bigamy:

- 13301 (a) under fraudulent or false pretenses; or
- 13302 (b) by threat or coercion.

13303 (4) An individual is guilty of a second degree felony if the individual:

- 13304 (a) cohabitates with another individual with whom the individual is engaged in bigamy
- 13305 as described in Subsection (1); and
- 13306 (b) in furtherance of the conduct described in Subsection (4)(a), commits a felony
- 13307 offense, or for Subsection (4)(b)(xiii), a misdemeanor offense, in violation of one or
- 13308 more of the following:
 - 13309 (i) Section 76-5-109, child abuse;
 - 13310 (ii) Section 76-5-109.2, aggravated child abuse;
 - 13311 (iii) Section 76-5-109.3, child abandonment;
 - 13312 (iv) Section 76-5-111, abuse of a vulnerable adult;
 - 13313 (v) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
 - 13314 (vi) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

- 13315 (vii) Section 76-5-111.4, financial exploitation of a vulnerable adult;
- 13316 (viii) Chapter 5, Part 2, Criminal Homicide;
- 13317 (ix) Section 76-5-208, child abuse homicide;
- 13318 (x) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 13319 (xi) Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-419, or
- 13320 76-5-420;
- 13321 (xii) Section 76-7-201, criminal nonsupport;
- 13322 [~~xiii~~] ~~Section 76-9-702.1, sexual battery;~~
- 13323 [~~xiv~~] (xiii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or
- 13324 [~~xv~~] (xiv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

- 13325 (5) It is a defense to prosecution under Subsection (2) that:
- 13326 (a) the individual ceased the practice of bigamy as described in Subsection (1) under
 - 13327 reasonable fear of coercion or bodily harm;
 - 13328 (b) the individual entered the practice of bigamy, as described in Subsection (1), as a
 - 13329 minor and ceased the practice of bigamy at any time after the individual entered the
 - 13330 practice of bigamy; or
 - 13331 (c) law enforcement discovers that the individual practices bigamy, as described in
 - 13332 Subsection (1), as a result of the individual's efforts to protect the safety and welfare
 - 13333 of another individual.

13334 Section 233. Section **76-8-107** is amended to read:

13335 **76-8-107 . Alteration of proposed legislative bill or resolution.**

- 13336 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 13337 (2) An actor commits alteration of proposed legislative bill or resolution if the actor
- 13338 fraudulently alters the draft of a bill or resolution that has been presented to either of the
- 13339 houses composing the Legislature to be passed or adopted, with intent to procure the
- 13340 proposed legislative bill or resolution being passed or adopted by either house, or
- 13341 certified by the presiding officer of either house in language different from that intended
- 13342 by either house.
- 13343 (3) A violation of Subsection (2) is a third degree felony.

13344 Section 234. Section **76-8-311.1** is amended to read:

13345 **76-8-311.1 . Establishment of secure areas -- Items prohibited -- References to**

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13347 **penalty provisions.**

13348 (1)(a) As used in this section:

13349 (i) "Correctional facility" means the same as that term is defined in Section
13350 76-8-311.3.

13351 (ii) "Dangerous weapon" means the same as that term is defined in Section [
13352 ~~76-10-501~~] 76-11-101.

13353 (iii) "Explosive" means the same as the term "explosive, chemical, or incendiary
13354 device" defined in Section [~~76-10-306~~] 76-15-210.

13355 (iv) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
13356 76-11-101.

13357 (v) "Law enforcement facility" means a facility that is owned, leased, or operated by
13358 a law enforcement agency.

13359 (vi) "Mental health facility" means the same as that term is defined in Section
13360 26B-5-301.

13361 (vii)(A) "Secure area" means an area created under this section into which certain
13362 persons are restricted from transporting a firearm or other dangerous weapon,
13363 ammunition, or explosive.

13364 (B) A "secure area" may not include any area normally accessible to the public.

13365 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

13366 (2)(a) The State Tax Commission or a correctional, law enforcement, or mental health
13367 facility may establish secure areas within the facility and may prohibit or control by
13368 rule any firearm or other dangerous weapon, ammunition, or explosive.

13369 (b) Subsections (2)(a), (3), (4), and (5) apply to a higher education secure area hearing
13370 room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

13371 (3) An entity that creates a secure area under this section shall ensure that at least one notice
13372 is prominently displayed at each entrance to the secure area in which a firearm,
13373 ammunition, dangerous weapon, or explosive is restricted.

13374 (4)(a) An entity that creates a secure area under this section shall provide a secure
13375 weapons storage area so that an individual entering the secure area may store the
13376 individual's weapon before entering the secure area.

13377 (b) The entity operating the facility shall be responsible for a weapon while the weapon

13378 is stored in the storage area described in Subsection (4)(a).

13379 (5)(a) An actor who transports a firearm or other dangerous weapon or ammunition into
13380 a secure area created under this section or a higher education secure area hearing
13381 room created under this section may be punished under Section 76-8-311.2.

13382 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an
13383 explosive in a secure area or a higher education secure area hearing room created
13384 under this section may be punished under Section ~~[76-10-306]~~ 76-15-210.

13385 (c) It is a defense to a prosecution related to this section that the actor acted in
13386 conformity with the facility's rule or policy established pursuant to this section.
13387 Section 235. Section **76-8-311.2** is amended to read:

13388 **76-8-311.2 . Prohibited dangerous weapon or ammunition in a secure area.**

13389 (1)(a) As used in this section:

13390 (i) "Correctional facility" means the same as that term is defined in Section
13391 76-8-311.3.

13392 (ii) "Dangerous weapon" means the same as that term is defined in Section [
13393 ~~76-10-501~~] 76-11-101.

13394 (iii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
13395 76-11-101.

13396 (iv) "Higher education secure area" means a higher education secure area hearing
13397 room created under Section 76-8-311.1.

13398 (v) "Law enforcement facility" means the same as that term is defined in Section
13399 76-8-311.1.

13400 (vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

13401 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

13402 (2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the
13403 actor knowingly or intentionally transports a firearm or other dangerous weapon or
13404 ammunition into:

13405 (a) a correctional facility;

13406 (b) a secure area created by the State Tax Commission;

13407 (c) a secure area in a law enforcement facility or a mental health facility; or

13408 (d) a higher education secure area.

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13409 (3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of
13410 Subsection (2) is a third degree felony.

13411 (4) It is a defense to a prosecution under this section that the actor acted in conformity with
13412 the facility's rule or policy established under Section 76-8-311.1.

13413 Section 236. Section **76-8-311.3** is amended to read:

13414 **76-8-311.3 . Establishment of prohibited item policy in a correctional or mental**
13415 **health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**

13416 (1)(a) As used in this section:

13417 (i) "Communication device" means a device designed to receive or transmit an
13418 image, text message, email, video, location information, or voice communication,
13419 or another device that can be used to communicate electronically.

13420 (ii) "Controlled substance" means a substance defined as a controlled substance under
13421 Title 58, Chapter 37, Utah Controlled Substances Act.

13422 (iii) "Correctional facility" means:

13423 (A) a facility operated by or contracting with the Department of Corrections to
13424 house an offender in either a secure or nonsecure setting;

13425 (B) a facility operated by a municipality or a county to house or detain an offender;

13426 (C) a juvenile detention facility; or

13427 (D) a building or grounds appurtenant to a facility or land granted to the state,
13428 municipality, or county for use as a correctional facility.

13429 (iv) "Dangerous weapon" means the same as that term is defined in Section [
13430 ~~76-10-501~~] 76-11-101.

13431 (v) "Electronic cigarette product" means the same as that term is defined in Section [
13432 ~~76-10-101~~] 76-9-1101.

13433 (vi) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
13434 76-11-101.

13435 (vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b,
13436 Pharmacy Practice Act, but does not include a controlled substance as defined in
13437 Title 58, Chapter 37, Utah Controlled Substances Act.

13438 (viii) "Mental health facility" means the same as that term is defined in Section
13439 26B-5-301.

13440 (ix) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]
13441 76-9-1101.

13442 (x) "Offender" means an individual in custody at a correctional facility.

13443 (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

13444 (xii) "Tobacco product" means the same as that term is defined in Section [~~76-10-101~~]
13445 76-9-1101.

13446 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

13447 (2)(a) Notwithstanding Section [~~76-10-500~~] 53-5a-102, a correctional facility or mental
13448 health facility may prohibit a firearm, ammunition, a dangerous weapon, an
13449 implement of escape, an explosive, a controlled substance, spirituous or fermented
13450 liquor, medicine, or poison from being:

13451 (i) transported to or within a correctional facility or mental health facility;

13452 (ii) sold or given away to an offender at a correctional facility or mental health
13453 facility; or

13454 (iii) possessed by an offender or another individual at a correctional facility or mental
13455 health facility.

13456 (b) A correctional facility may prohibit a communication device from being:

13457 (i) transported within the correctional facility for the purpose of being sold to an
13458 offender in the correctional facility;

13459 (ii) sold or given away to an offender in the correctional facility; or

13460 (iii) possessed by an offender or another individual at the correctional facility.

13461 (3) It is a defense to a prosecution related to this section that the actor, in committing the act
13462 made criminal by this section with respect to:

13463 (a) a correctional facility operated by the Department of Corrections, acted in conformity
13464 with departmental rule or policy;

13465 (b) a correctional facility operated by a municipality, acted in conformity with the policy
13466 of the municipality;

13467 (c) a correctional facility operated by a county, acted in conformity with the policy of
13468 the county; or

13469 (d) a mental health facility, acted in conformity with the policy of the mental health
13470 facility.

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- 13471 (4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under
13472 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
13473 76-8-311.11 for a violation of a policy or rule created under this section.
- 13474 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an
13475 explosive in a correctional facility or a mental health facility may be punished under
13476 Section ~~[76-10-306]~~ 76-15-210 or 76-15-211.
- 13477 (c) The possession, distribution, or use of a controlled substance at a correctional facility
13478 or in a secure area of a mental health facility shall be charged under Title 58, Chapter
13479 37, Utah Controlled Substances Act.
- 13480 (5) Exemptions to a policy or rule created under this section may be granted for worship of
13481 Native American inmates in accordance with Section 64-13-40.
- 13482 Section 237. Section **76-8-311.4** is amended to read:
- 13483 **76-8-311.4 . Prohibited item in correctional or mental health facility for use by**
13484 **offender or detainee.**
- 13485 (1)(a) As used in this section:
- 13486 (i) "Correctional facility" means the same as that term is defined in Section
13487 76-8-311.3.
- 13488 (ii) "Dangerous weapon" means the same as that term is defined in Section [
13489 ~~76-10-501~~] 76-11-101.
- 13490 (iii) "Mental health facility" means the same as that term is defined in Section
13491 76-8-311.3.
- 13492 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 13493 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 13494 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 13495 (2) An actor commits prohibited item in correctional or mental health facility for use by
13496 offender or detainee if the actor:
- 13497 (a) transports a dangerous weapon, ammunition, or implement of escape to or within a
13498 correctional facility, or into a secure area of a mental health facility, with the intent to
13499 provide or sell to an offender or detainee the dangerous weapon, ammunition, or
13500 implement of escape; or
- 13501 (b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

- 13502 (i) an offender at a correctional facility; or
13503 (ii) a detainee at a secure area of a mental health facility.
- 13504 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree
13505 felony.
- 13506 (4) The defenses provided in Section 76-8-311.3 apply to this section.
13507 Section 238. Section **76-8-311.7** is amended to read:
13508 **76-8-311.7 . Possession of prohibited item in correctional facility or secure area**
13509 **of mental health facility.**
- 13510 (1)(a) As used in this section:
13511 (i) "Correctional facility" means the same as that term is defined in Section
13512 76-8-311.3.
13513 (ii) "Dangerous weapon" means the same as that term is defined in Section [
13514 ~~76-10-501~~] 76-11-101.
13515 (iii) "Mental health facility" means the same as that term is defined in Section
13516 76-8-311.3.
13517 (iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 13518 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 13519 (2) An actor commits possession of prohibited item in correctional facility or secure area of
13520 mental health facility if the actor, without the permission of the authority operating the
13521 correctional facility or the secure area of a mental health facility, knowingly possesses a
13522 dangerous weapon, ammunition, or implement of escape at a correctional facility or in a
13523 secure area of a mental health facility.
- 13524 (3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection
13525 (2) is a third degree felony.
- 13526 (4) The defenses provided in Section 76-8-311.3 apply to this section.
13527 Section 239. Section **76-8-318** is amended to read:
13528 **76-8-318 . Assault or threat of violence against child welfare worker.**
- 13529 (1)(a) As used in this section:
13530 (i) "Assault" means an offense under Section 76-5-102.
13531 (ii) "Child welfare worker" means an employee of the Division of Child and Family
13532 Services created in Section 80-2-201.

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- 13533 (iii) "Threat of violence" means an offense under Section 76-5-107.
- 13534 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 13535 (2) An actor commits assault or threat of violence against child welfare worker if:
- 13536 (a) the actor is not:
- 13537 (i) a prisoner or an individual detained under Section 77-7-15; or
- 13538 (ii) a minor in the custody of or receiving services from a division within the
- 13539 Department of Health and Human Services;
- 13540 (b) the actor commits an assault or threat of violence against an individual;
- 13541 (c) the individual described in Subsection (2)(b) is a child welfare worker;
- 13542 ~~[(b)]~~ (d) the actor knew that the ~~[victim was]~~ individual described in Subsection (2)(b) is
- 13543 a child welfare worker; and
- 13544 ~~[(e)]~~ (e) the child welfare worker was acting within the scope of the child welfare
- 13545 worker's authority at the time of the assault or threat of violence.
- 13546 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
- 13547 misdemeanor.
- 13548 (b) A violation of Subsection (2) is a third degree felony if the actor:
- 13549 (i) causes substantial bodily injury; and
- 13550 (ii) acts intentionally or knowingly.

13551 Section 240. Section **76-8-411** is amended to read:

13552 **76-8-411 . Trafficking in warrants.**

- 13553 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 13555 (2) An actor commits trafficking in warrants if the actor:
- 13556 (a) is ~~[a]~~ an officer of the state, a county, a city, a town, or a district~~[-offieer]~~; and
- 13557 (b) directly or indirectly contracts for or purchases a warrant or order issued by the state,
- 13558 county, city, town, or district of which the actor is an officer, at any discount
- 13559 whatever upon the sum due on the warrant or order.

- 13560 (3) A violation of Subsection (2) is a class B misdemeanor.

13561 Section 241. Section **76-9-101** is amended to read:

13562 **CHAPTER 9. OFFENSES AGAINST PUBLIC ORDER, HEALTH, AND SAFETY**

13563 **Part 1. Breaches of the Peace and Related Offenses**

13564 **76-9-101 . Riot.**13565 (1) Terms defined in Section 76-1-101.5 apply to this section.13566 (2) ~~[An individual is guilty of]~~ An actor commits riot if the [individual] actor:13567 (a) simultaneously with two or more other individuals engages in violent conduct,
13568 knowingly or recklessly creating a substantial risk of causing public alarm;13569 (b) assembles with two or more other individuals with the purpose of engaging, soon
13570 thereafter, in violent conduct, knowing, that two or more other individuals in the
13571 assembly have the same purpose;~~[-or]~~13572 (c) assembles with two or more other individuals with the purpose of committing an
13573 offense against a person, or the property of another person who the [individual] actor
13574 supposes to be guilty of a violation of law, believing that two or more other
13575 individuals in the assembly have the same purpose~~[-]~~ ; or13576 ~~[(2)]~~ (d) ~~[Any individual who]~~refuses to comply with a lawful order to withdraw prior
13577 to, during, or immediately following a violation of ~~[Subsection (1) is guilty of riot].~~
13578 ~~It is no defense to a prosecution under this Subsection (2) that withdrawal must take~~
13579 ~~place over private property; provided, however, that an individual who withdraws in~~
13580 ~~compliance with an order to withdraw may not incur criminal or civil liability by~~
13581 ~~virtue of acts reasonably necessary to accomplish the withdrawal.]~~ Subsection (2)(a),
13582 (b), or (c).13583 (3)(a) Except as provided in Subsection ~~[(4), riot]~~ (3)(b), a violation of Subsection (2) is
13584 a class B misdemeanor.13585 ~~[(4)]~~ (b) ~~[Riot]~~ A violation of Subsection (2) is a third degree felony if, in the course of
13586 the ~~[e]onduet~~ violation:13587 ~~[(a)]~~ (i) the [individual] actor causes substantial or serious bodily injury;13588 ~~[(b)]~~ (ii) the [individual] actor causes substantial property damage or commits arson; or13589 ~~[(c)]~~ (iii) the [individual] actor was in possession of a dangerous weapon~~[as defined in~~
13590 Section 76-1-101.5].13591 (4) It is not a defense to a prosecution under Subsection (2)(d) that in order for an actor to
13592 comply with an order to withdraw the actor must enter or cross over private property.13593 (5) An actor is not criminally or civilly liable for actions that the actor takes that are
13594 reasonably necessary to comply with an order to withdraw under Subsection (2)(d).

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13595 ~~[(5)]~~ (6) An ~~[individual]~~ actor arrested for a violation of Subsection ~~[(4)]~~ (2) may not be
13596 released from custody before the ~~[individual]~~ actor appears before a magistrate or a judge.

13597 ~~[(6) The court shall order a defendant convicted under Subsection (4) to pay restitution in~~
13598 ~~accordance with Section 77-38b-205.]~~

13599 Section 242. Section **76-9-102** is amended to read:

13600 **76-9-102 . Disorderly conduct.**

13601 (1)(a) As used in this section:

13602 ~~[(a)]~~ (i) "Official meeting" means:

13603 ~~[(i)]~~ (A) a meeting, as defined in Section 52-4-103;

13604 ~~[(ii)]~~ (B) a meeting of the Legislature, the Utah Senate, the Utah House of

13605 Representatives, a legislative caucus, or any committee, task force, working

13606 group, or other organization in the state legislative branch; or

13607 ~~[(iii)]~~ (C) a meeting of an entity created by the Utah Constitution, Utah Code, Utah

13608 administrative rule, legislative rule, or a written rule or policy of the

13609 Legislative Management Committee.

13610 ~~[(b)]~~ (ii) "Public place" means a place to which the public or a substantial group of the
13611 public has access, including:

13612 ~~[(i)]~~ (A) streets or highways; and

13613 ~~[(ii)]~~ (B) the common areas of schools, hospitals, apartment houses, office

13614 buildings, public buildings, public facilities, transport facilities, and shops.

13615 (b) Terms defined in Section 76-1-101.5 apply to this section.

13616 (2) An ~~[individual is guilty of]~~ actor commits disorderly conduct if:

13617 (a) the ~~[individual]~~ actor refuses to comply with the lawful order of a law enforcement

13618 officer to move from a public place or an official meeting, or knowingly creates a

13619 hazardous or physically offensive condition~~[-]~~by any act that serves no legitimate

13620 purpose; or

13621 (b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating

13622 a risk of public inconvenience, annoyance, or alarm, the ~~[person]~~ actor:

13623 (i) engages in fighting or in violent, tumultuous, or threatening behavior;

13624 (ii) makes unreasonable noises in a public place or an official meeting;

13625 (iii) makes unreasonable noises in a private place ~~[which]~~ that can be heard in a public

13626 place or an official meeting; or
13627 (iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.

13628 ~~[(3) The mere carrying or possession of a holstered or encased firearm, whether visible or~~
13629 ~~concealed, without additional behavior or circumstances that would cause a reasonable~~
13630 ~~person to believe the holstered or encased firearm was carried or possessed with~~
13631 ~~criminal intent, does not constitute a violation of this section. Nothing in this Subsection~~
13632 ~~(3) may limit or prohibit a law enforcement officer from approaching or engaging any~~
13633 ~~person in a voluntary conversation.]~~

13634 ~~[(4)]~~ (3)(a) ~~[An individual who violates this section is guilty of:]~~ Except as provided in
13635 Subsection (3)(b), (c), or (d), a violation of Subsection (2) is an infraction.

13636 ~~[(a) except as provided in Subsection (4)(b), (c), or (d), an infraction;]~~

13637 (b) ~~[except]~~ Except as provided in Subsection ~~[(4)(e) or (d)],~~ (3)(c) or (d), a violation of
13638 Subsection (2) is a class C misdemeanor[;] if the violation occurs after the ~~[individual]~~
13639 actor has been asked to cease conduct prohibited under this section[;] .

13640 (c) ~~[except]~~ Except as provided in Subsection ~~[(4)(d)]~~ (3)(d), a violation of Subsection (2)
13641 is a class B misdemeanor[;] if:

13642 (i) the violation occurs after the ~~[individual]~~ actor has been asked to cease conduct
13643 prohibited under this section; and

13644 (ii) within five years before the day on which the ~~[individual]~~ actor violates this
13645 section, the ~~[individual]~~ actor was previously convicted of a violation of this
13646 section[; or] .

13647 (d) A violation of Subsection (2) is a class A misdemeanor[;] if:

13648 (i) the violation occurs after the ~~[individual]~~ actor has been asked to cease conduct
13649 prohibited under this section; and

13650 (ii) within five years before the day on which the ~~[individual]~~ actor violates this
13651 section, the ~~[individual]~~ actor was previously convicted of two or more violations
13652 of this section.

13653 (4)(a) The mere carrying or possession of a holstered or encased firearm, whether
13654 visible or concealed, without additional behavior or circumstances that would cause a
13655 reasonable person to believe the holstered or encased firearm was carried or
13656 possessed with criminal intent, does not constitute a violation of this section.

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13657 (b) Subsection (4)(a) does not limit or prohibit a law enforcement officer from
13658 approaching or engaging an individual in a voluntary conversation.

13659 Section 243. Section **76-9-103** is amended to read:

13660 **76-9-103 . Disrupting a meeting or procession.**

13661 (1) Terms defined in Section 76-1-101.5 apply to this section.

13662 (2) ~~[A person is guilty of]~~ An actor commits disrupting a meeting or procession if~~[,] the~~
13663 actor:~~[intending to prevent or disrupt a lawful meeting, procession, or gathering,]~~

13664 (a) ~~[he]~~obstructs or interferes with [the] a lawful meeting, procession, or gathering by
13665 physical action, verbal utterance, or any other means; and

13666 (b) intends the obstruction or disruption described in Subsection (2)(a) to prevent or
13667 disrupt the meeting, procession, or gathering.

13668 ~~[(2)] (3) [Disrupting a meeting or procession]~~ A violation of Subsection (2) is a class B
13669 misdemeanor.

13670 Section 244. Section **76-9-104** is amended to read:

13671 **76-9-104 . Failure to disperse.**

13672 (1) Terms defined in Section 76-1-101.5 apply to this section.

13673 (2) ~~[A person is guilty of]~~ An actor commits failure to disperse if the actor:

13674 (a) ~~[when he remains]~~ is at the scene of a riot, disorderly conduct, or an unlawful
13675 assembly; and

13676 (b) ~~[-]~~ remains at the scene of the riot, disorderly conduct, or unlawful assembly after
13677 having been ordered to disperse by a peace officer.

13678 ~~[(2)]~~ This section shall not apply to a person who attempted to but was unable to leave the
13679 scene of the riot or unlawful assembly.]

13680 (3) ~~[Failure to disperse]~~ A violation of Subsection (2) is a class C misdemeanor.

13681 (4) This section does not apply to an actor who attempts to leave the scene of a riot,
13682 disorderly conduct, or unlawful assembly but is unsuccessful in leaving the scene.

13683 Section 245. Section **76-9-105** is amended to read:

13684 **76-9-105 . Making a false alarm.**

13685 (1)(a) As used in this section, "weapon of mass destruction" means the same as that
13686 term is defined in Section 76-15-301.

13687 (b) Terms defined in Section 76-1-101.5 apply to this section.

- 13688 (2) ~~[A person is guilty of]~~ An actor commits making a false alarm if ~~[he]~~ the actor:
- 13689 (a) ~~[-]initiates or circulates a report or warning of [any] a fire, impending bombing, or~~
13690 ~~other crime or catastrophe[-] ; and~~
- 13691 (b) ~~[-knowing]~~ knows that that the report or warning described in Subsection (2)(a) is:
- 13692 (i) ~~[-]false or baseless[-and] ;~~
- 13693 (ii) ~~[-is-]likely to cause the evacuation of [any] a building, place of assembly, or~~
13694 ~~facility of public transport[-] ; and~~
- 13695 (iii) ~~[-to]~~ likely to cause public inconvenience or alarm or action of any sort ~~[by any]~~
13696 by an official or volunteer agency organized to deal with emergencies.
- 13697 ~~[(2)(a) A person is guilty of a second degree felony if the person makes a false alarm~~
13698 ~~relating to a weapon of mass destruction as defined in Section 76-10-401.]~~
- 13699 ~~[(b) A person is guilty of a third degree felony if:]~~
- 13700 ~~[(i) the person makes a false alarm alleging on ongoing act or event, or an imminent threat;~~
13701 ~~and]~~
- 13702 ~~[(ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or~~
13703 ~~death to another person.]~~
- 13704 ~~[(c) Making a false alarm other than under Subsection (2)(a) or (b) is a class B~~
13705 ~~misdemeanor.]~~
- 13706 (3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a
13707 class B misdemeanor.
- 13708 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third
13709 degree felony if:
- 13710 (i) the actor makes a false alarm alleging an ongoing act or event, or an imminent
13711 threat; and
- 13712 (ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or
13713 death to another individual.
- 13714 (c) A violation of Subsection (2) is a second degree felony if the false alarm is regarding
13715 a weapon of mass destruction.
- 13716 (4) In addition to any other penalty authorized by law, a court shall order [any person] an
13717 actor convicted of a felony violation of this section to reimburse any federal, state, or
13718 local unit of government, or any private business, organization, individual, or entity for

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13719 all expenses and losses incurred in responding to the violation, unless the court states on
13720 the record the reasons why the court finds the reimbursement would be inappropriate.

13721 Section 246. Section **76-9-105.5**, which is renumbered from Section 76-9-202 is renumbered
13722 and amended to read:

13723 **[76-9-202]76-9-105.5 . Emergency reporting abuse.**

13724 (1)(a) As used in this section:

13725 (i) "Emergency" means a situation in which property or human life is in jeopardy and
13726 the prompt summoning of aid is essential to the preservation of human life or
13727 property.

13728 (ii) "Party line" means a subscriber's line or telephone circuit:

13729 (A) that consists of two or more connected main telephone stations; and

13730 (B) where each telephone station has a distinctive ring or telephone number.

13731 (iii) "Weapon of mass destruction" means the same as that term is defined in Section
13732 76-15-301.

13733 (b) Terms defined in Sections 76-1-101.5 apply to this section.

13734 (2) An actor ~~[is guilty of]~~ commits emergency reporting abuse if the actor:

13735 ~~[(a) intentionally refuses to yield or surrender the use of a party line or a public pay~~
13736 ~~telephone to another individual upon being informed that the telephone is needed to~~
13737 ~~report a fire or summon police, medical, or other aid in case of emergency, unless the~~
13738 ~~telephone is likewise being used for an emergency call;]~~

13739 ~~[(b) asks for or requests the use of a party line or a public pay telephone on the pretext~~
13740 ~~that an emergency exists, knowing that no emergency exists;]~~

13741 ~~[(c)]~~ (a) ~~[except as provided in Subsection (2)(d),]~~ reports an emergency or causes an
13742 emergency to be reported, through any means, to a public, private, or volunteer entity
13743 whose purpose is to respond to fire, police, or medical emergencies, when the actor
13744 knows the reported emergency does not exist;

13745 ~~[(d)]~~ (b) makes a false report, or intentionally aids, abets, or causes another person to
13746 make a false report, through any means to an emergency response service, including
13747 a law enforcement dispatcher or a 911 emergency response service, if the false report
13748 claims that:

13749 (i) an emergency exists or will exist;

13750 (ii) the emergency described in Subsection ~~[(2)(d)(i)]~~ (2)(b)(i) involves an imminent
13751 or future threat of serious bodily injury, serious physical injury, or death; and

13752 (iii) the emergency described in Subsection ~~[(2)(d)(i)]~~ (2)(b)(i) is occurring, or will
13753 occur, at a specified location; or

13754 ~~[(e)]~~ (c) makes a false report after having previously made a false report, or intentionally
13755 aides, abets, or causes a third party to make a false report, to an emergency response
13756 service, including a law enforcement dispatcher or a 911 emergency response service,
13757 alleging a violation of Section 63G-31-302 regarding a sex-designated changing
13758 room.

13759 (3)~~[(a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.]~~

13760 ~~[(b)]~~ (a) ~~[A-]~~ Except as provided in Subsection (3)(b), a violation of Subsection ~~[(2)(e)]~~
13761 (2)(a) is a class B misdemeanor~~[-, except as provided under Subsection (3)(e)].~~

13762 ~~[(e)]~~ (b) A violation of Subsection ~~[(2)(e)]~~ (2)(a) is a second degree felony if the report is
13763 regarding a weapon of mass destruction~~[-, as defined in Section 76-10-401].~~

13764 ~~[(d)]~~ (c) A violation of Subsection ~~[(2)(d)]~~ (2)(b) is a second degree felony~~[-].~~

13765 ~~[(e)]~~ (d) A violation of Subsection ~~[(2)(e)]~~ (2)(c) is a class B misdemeanor.

13766 (4)(a) In addition to another penalty authorized by law, a court shall order an actor
13767 convicted of a violation of this section to reimburse a federal, state, or local unit of
13768 government, or a private business, organization, individual, or entity for all expenses
13769 and losses incurred in responding to the violation.

13770 (b) The court may order that the ~~[defendant]~~ actor pay less than the full amount of the
13771 costs described in Subsection (4)(a) only if the court states on the record the reasons
13772 why the reimbursement would be inappropriate.

13773 Section 247. Section **76-9-105.6** is enacted to read:

13774 **76-9-105.6 . Prohibited use of a party line or public pay telephone in an**
13775 **emergency.**

13776 (1)(a) As used in this section:

13777 (i) "Emergency" means the same as that term is defined in Section 76-9-105.5.

13778 (ii) "Party line" means the same as that term is defined in Section 76-9-105.5.

13779 (b) Terms defined in Section 76-1-101.5 apply to this section.

13780 (2) An actor commits prohibited use of a party line or public pay telephone in an

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- 13781 emergency if the actor:
- 13782 (a) intentionally refuses to yield or surrender the use of a party line or a public pay
- 13783 telephone to another individual upon being informed that the party line or public pay
- 13784 telephone is needed to report a fire or summon police, medical, or other aid in case of
- 13785 an emergency; or
- 13786 (b) asks for or requests the use of a party line or a public pay telephone on the pretext
- 13787 that an emergency exists, knowing that no emergency exists.
- 13788 (3) A violation of Subsection (2) is a class C misdemeanor.
- 13789 (4) Subsection (2)(a) does not apply if the actor refuses to yield or surrender the use of the
- 13790 party line or public pay telephone because the actor is using the party line or public pay
- 13791 telephone to report an emergency.
- 13792 (5)(a) In addition to another penalty authorized by law, a court shall order an actor
- 13793 convicted of a violation of this section to reimburse a federal, state, or local unit of
- 13794 government, or a private business, organization, individual, or entity for all expenses
- 13795 and losses incurred in responding to the violation.
- 13796 (b) The court may order that the actor pay less than the full amount of the costs
- 13797 described in Subsection (5)(a) only if the court states on the record the reasons why
- 13798 the full reimbursement would be inappropriate.
- 13799 Section 248. Section **76-9-106** is amended to read:
- 13800 **76-9-106 . Disrupting the operation of a school.**
- 13801 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 13802 (2) [~~A person is guilty of~~] An actor commits disrupting the operation of a school if the [~~person,~~] actor:
- 13803 person,] actor:
- 13804 (a) [~~after being asked to leave by a school official, remains~~] is on [school] the property of
- 13805 a private or public school, including property being used by the school for a school
- 13806 function;
- 13807 (b) [~~for~~] has the purpose of encouraging or creating an unreasonable and substantial
- 13808 disruption or risk of disruption of a class, activity, program, or other function of [~~a~~
- 13809 ~~public or private school~~] the school; and
- 13810 (c) remains on the property after being requested to leave by a school official.
- 13811 [(2) For purposes of this section, "school property" includes property being used by a

13812 public or private school for a school function.]

13813 (3) ~~[Disrupting the operation of a school-]~~ A violation of Subsection (2) is a class B
13814 misdemeanor.

13815 Section 249. Section **76-9-107** is amended to read:

13816 **76-9-107 . Unauthorized entry onto a school bus.**

13817 (1)(a) As used in this section:

13818 ~~[(a)]~~ (i) "Driver" means the driver of ~~[the]~~ a school bus.

13819 ~~[(b)]~~ (ii) "School bus" means ~~[every]~~ a publicly or privately owned motor vehicle
13820 designed for transporting 10 or more passengers and operated for the
13821 transportation of children to or from school or school activities.

13822 (b) Terms defined in Section 76-1-101.5 apply to this section.

13823 (2) ~~[A person is guilty of a class B misdemeanor if the person]~~ An actor commits
13824 unauthorized entry onto a school bus if the actor:

13825 (a) enters a school bus with the intent to commit a criminal offense;

13826 (b) enters a school bus and disrupts or interferes with the driver; or

13827 (c) enters a school bus and refuses to leave the school bus after being ordered to leave by
13828 the driver and the ~~[person]~~ actor:

13829 ~~[(i) is not a peace officer acting within the scope of his or her authority as a peace~~
13830 ~~officer;]~~

13831 ~~[(ii) is not authorized by the school district to board the bus as a student or as an~~
13832 ~~individual employed by the school district or volunteering as a participant in a~~
13833 ~~school activity;]~~

13834 ~~[(iii)]~~ (i) causes or attempts to cause a disruption or an annoyance to any passenger on
13835 the school bus; or

13836 ~~[(iv)]~~ (ii) is reckless as to whether the ~~[person's]~~ actor's presence or behavior will cause
13837 fear ~~[on the part of any]~~ to a passenger on the school bus.

13838 (3) A violation of Subsection (2) is a class B misdemeanor.

13839 (4) Subsection (2)(c) does not apply:

13840 (a) if the actor is a peace officer acting within the scope of the peace officer's authority;
13841 or

13842 (b) the actor is authorized by the school district to board the school bus as:

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- 13843 (i) a student;
- 13844 (ii) an individual employed by the school district; or
- 13845 (iii) a volunteer participant in a school activity.

13846 ~~[(3)]~~ (5) Each school district shall ensure that clearly legible signs ~~[be]~~ warning that
13847 unauthorized entry onto a school bus is a violation of the law are placed on each school
13848 bus~~[-]~~ and next to each entrance to the bus~~[-, warning that unauthorized entry of a~~
13849 ~~school bus is a violation of state law].~~

13850 Section 250. Section **76-9-108** is amended to read:

13851 **76-9-108 . Disrupting a funeral or memorial service.**

13852 (1)(a) As used in this section:

13853 ~~[(a)]~~ (i) "Funeral procession" means a procession of two or more motor vehicles
13854 where:

13855 ~~[(i)]~~ (A) the operators of the vehicles identify themselves as being part of the
13856 procession by having the lamps or lights of the vehicle on and by keeping in
13857 close formation with the other vehicles in the procession;

13858 ~~[(ii)]~~ (B) at least one vehicle contains the body or remains of a deceased person
13859 being memorialized; and

13860 ~~[(iii)]~~ (C) the vehicles are going to or from a memorial service.

13861 ~~[(b)]~~ (ii) "Memorial service" means a wake, funeral, graveside service, burial, or other
13862 ceremony or rite held in connection with the burial or cremation of an individual.

13863 ~~[(c)]~~ (iii) "Memorial site" means a church, synagogue, mosque, funeral home,
13864 mortuary, cemetery, grave site, mausoleum, or other place at which a memorial
13865 service is conducted.

13866 ~~[(d)]~~ (iv) "Disruptive activity" means:

13867 ~~[(i)]~~ (A) a loud or disruptive oration or speech that is not part of the memorial
13868 service;

13869 ~~[(ii)]~~ (B) the display of a placard, banner, poster, flag, or other item that is not part
13870 of the memorial service; or

13871 ~~[(iii)]~~ (C) the distribution of any handbill, pamphlet, leaflet, or other written
13872 material or other item that is not part of the memorial service.

13873 (b) Terms defined in Section 76-1-101.5 apply to this section.

- 13874 (2) ~~[A person is guilty of a class B misdemeanor if the person,]~~ An actor commits
13875 disrupting a funeral or memorial service if the actor:
- 13876 (a) ~~[with intent]~~ intends to disrupt ~~[the]~~ a memorial service~~[-]~~; and
- 13877 (b) ~~[-]~~ does any of the following during the period beginning 60 minutes immediately
13878 before the scheduled commencement of ~~[a]~~ the memorial service and ending 60
13879 minutes after the conclusion of ~~[a]~~ the memorial service:
- 13880 ~~[(a)]~~ (i) obstructs, hinders, impedes, or blocks another ~~[person's]~~ individual's entry to
13881 or exit from the memorial site;
- 13882 ~~[(b)]~~ (ii) obstructs, hinders, impedes, or blocks a funeral procession;
- 13883 ~~[(c)]~~ (iii) makes unreasonable noise; or
- 13884 ~~[(d)]~~ (iv) engages in a disruptive activity within 200 feet of the memorial service.
- 13885 (3) A violation of Subsection (2) is a class B misdemeanor.
- 13886 Section 251. Section **76-9-109** is amended to read:
- 13887 **76-9-109 . Targeted residential picketing.**
- 13888 (1)(a) As used in this section:
- 13889 ~~[(a)]~~ (i) "Picketing" means the stationing or posting of one or more individuals to
13890 apprise the public, vocally or by standing or marching with signs, banners, sound
13891 amplification devices, or other means, of an opinion or a message.
- 13892 ~~[(b)]~~ (ii) "Residence" means any single-family, duplex, or multi-family dwelling unit
13893 that is not being used as a targeted occupant's sole place of business or as a place
13894 of public meeting.
- 13895 ~~[(c)]~~ "Targeted residential picketing" ~~means picketing, with or without signs, that is~~
13896 ~~specifically directed or focused toward a residence, or one or more occupants of~~
13897 ~~the residence, and that takes place:]~~
- 13898 ~~[(i)]~~ ~~on that portion of a sidewalk or street in front of the residence, in front of an~~
13899 ~~adjoining residence, or on either side of the targeted residence; or]~~
- 13900 ~~[(ii)]~~ ~~within 100 feet of the property line of the targeted residence.]~~
- 13901 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 13902 (2) ~~[It is unlawful to engage in]~~ An actor commits targeted residential picketing~~[-]~~ if:
- 13903 (a)(i) the actor engages in picketing, with or without signs, specifically directed or
13904 focused toward a residence, or one or more occupants of the residence; and

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- 13905 (ii) the actor's conduct described in Subsection (2)(a)(i) takes place:
- 13906 (A) on a portion of a sidewalk or street in front of the residence, in front of an
- 13907 adjoining residence, or on either side of the targeted residence; or
- 13908 (B) within 100 feet of the property line of the targeted residence; or
- 13909 (b)(i) the actor publishes, posts, disseminates, or discloses another individual's
- 13910 residential address, or other information identifying the specific location of the
- 13911 individual's residence; and
- 13912 (ii) the actor intends to cause another individual to engage in the conduct described in
- 13913 Subsection (2)(a) directed or focused toward the individual's residence.
- 13914 (3) A violation of Subsection (2) is a class B misdemeanor.
- 13915 [(3)] (4) This section does not apply to:
- 13916 (a) an ~~[individual]~~ actor picketing at the [individual's] actor's own residence;
- 13917 (b) the picketing of a meeting place or assembly area commonly used to discuss subjects
- 13918 of general public interest; or
- 13919 (c) general picketing that proceeds through residential neighborhoods or that proceeds
- 13920 past residences.
- 13921 [(4) It is unlawful to publish, post, disseminate, or disclose an individual's residential
- 13922 address, or other information identifying the specific location of an individual's
- 13923 residence, with the intent to cause another individual to engage in targeted residential
- 13924 picketing.]
- 13925 [(5) Targeted residential picketing is a class B misdemeanor.]
- 13926 [(6) A violation of Subsection (4) is a class B misdemeanor.]
- 13927 Section 252. Section **76-9-110**, which is renumbered from Section 76-9-701 is renumbered
- 13928 and amended to read:
- 13929 **[76-9-701] 76-9-110 . Public intoxication.**
- 13930 (1)(a) As used in this section, "minor" means an individual who is younger than 21
- 13931 years old.
- 13932 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 13933 (2) ~~[A person is guilty of]~~ An actor commits public intoxication if the [person] actor:
- 13934 (a)(i) [-] is in a public place; or
- 13935 (ii) is in a private place where the actor could unreasonably disturb other individuals;

13936 (b) is under the influence of alcohol, a controlled substance, or any substance having the
13937 property of releasing toxic vapors~~[-]~~ ; and

13938 (c) ~~[to a degree that the person]~~ is under the influence to a degree that it may endanger
13939 the [person] actor or another individual~~[-, in a public place or in a private place where~~
13940 ~~the person unreasonably disturbs other persons]~~.

13941 (3) A violation of Subsection (2) is a class C misdemeanor.

13942 ~~[(2)]~~ (4)(a) A peace officer or a magistrate may release an actor from custody ~~[a person]~~
13943 arrested under this section if the peace officer or magistrate believes ~~[imprisonment]~~
13944 incarceration is unnecessary for the protection of the ~~[person]~~ actor or another
13945 individual.

13946 (b) A peace officer may take the ~~[arrested person]~~ actor to a detoxification center or other
13947 special facility as an alternative to incarceration or release from custody.

13948 ~~[(3)]~~ (5)(a) If a minor is found by a court to have ~~[violated this section]~~ committed a
13949 violation of Subsection (2) and the violation is the minor's first violation of ~~[this~~
13950 ~~section]~~ Subsection (2), the court may:

- 13951 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 13952 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
13953 screening indicates an assessment to be appropriate; and
- 13954 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
13955 or substance use disorder treatment as indicated by an assessment.

13956 (b) If a minor is found by a court to have violated ~~[this section]~~ Subsection (2) and the
13957 violation is the minor's second or subsequent violation of ~~[this section]~~ Subsection (2),
13958 the court shall:

- 13959 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 13960 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
13961 screening indicates an assessment to be appropriate; and
- 13962 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
13963 or substance use disorder treatment as indicated by an assessment.

13964 ~~[(4)]~~ (6)(a) When a minor who is at least 18 years old, but younger than 21 years old, is
13965 found by a court to have violated ~~[this section]~~ Subsection (2), the court ~~[hearing the~~
13966 ~~ease]~~ shall suspend the minor's driving privileges under Section 53-3-219.

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- 13967 (b) Notwithstanding the requirement in Subsection [~~(4)~~(a)] (6)(a), the court may reduce
13968 the suspension period required under Section 53-3-219 if:
- 13969 (i) the violation is the minor's first violation of [~~this section~~] Subsection (2); and
13970 (ii)(A) the minor completes an educational series as defined in Section 41-6a-501;
13971 or
13972 (B) the minor demonstrates substantial progress in substance use disorder
13973 treatment.
- 13974 (c) Notwithstanding the requirement in Subsection [~~(4)~~(a)] (6)(a) and in accordance with
13975 the requirements of Section 53-3-219, the court may reduce the suspension period
13976 required under Section 53-3-219 if:
- 13977 (i) the violation is the minor's second or subsequent violation of [~~this section~~]
13978 Subsection (2);
- 13979 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
13980 demonstrated substantial progress in substance use disorder treatment; and
- 13981 (iii)(A) the [~~person~~] minor is 18 years old or older and provides a sworn statement
13982 to the court that the [~~person~~] minor has not unlawfully consumed alcohol or
13983 drugs for at least a one-year consecutive period during the suspension period
13984 imposed under Subsection [~~(4)~~(a)] (6)(a); or
13985 (B) the [~~person~~] minor is under 18 years old and has the [~~person's~~] minor's parent or
13986 legal guardian provide an affidavit or sworn statement to the court certifying
13987 that to the parent or legal guardian's knowledge the [~~person~~] minor has not
13988 unlawfully consumed alcohol or drugs for at least a one-year consecutive
13989 period during the suspension period imposed under Subsection [~~(4)~~(a)] (6)(a).
- 13990 [~~(5)~~] (7) When a [~~person~~] minor who is younger than 18 years old is found by a court to have
13991 violated [~~this section~~] Subsection (2), the provisions regarding suspension of the driver's
13992 license under Section 80-6-707 apply to the violation.
- 13993 [~~(6)~~] (8) Notwithstanding Subsections [~~(3)~~(a)] (5)(a) and (b), if a minor is adjudicated under
13994 Section 80-6-701, the court may only order substance use disorder treatment or an
13995 educational series if the minor has an assessed need for the intervention based on the
13996 results of a validated assessment.
- 13997 [~~(7)~~] (9) When the court issues an order suspending [~~a person's~~] an actor's driving privileges

13998 for a violation of [this section] Subsection (2), the [person's] actor's driver license shall be
13999 suspended under Section 53-3-219.

14000 [~~(8) An offense under this section is a class C misdemeanor.~~]

14001 Section 253. Section **76-9-111**, which is renumbered from Section 76-9-702.3 is renumbered
14002 and amended to read:

14003 **[76-9-702.3]76-9-111 . Public urination.**

14004 (1) Terms defined in Section 76-1-101.5 apply to this section.

14005 (2) [~~A person is guilty of~~] An actor commits public urination if the [person] actor urinates or
14006 defecates:

14007 (a) in a public place, other than a public rest room; and

14008 (b) under circumstances which the [person] actor should know will likely cause affront or
14009 alarm to another individual.

14010 [~~(2)~~] (3) [~~Public urination~~] A violation of Subsection (2) is an infraction.

14011 Section 254. Section **76-9-112**, which is renumbered from Section 76-9-705 is renumbered
14012 and amended to read:

14013 **[76-9-705]76-9-112 . Participation in an ultimate fighting match.**

14014 [(1) For purposes of this section, "ultimate fighting match" means a live match in which:]

14015 [(a) an admission fee is charged;]

14016 [(b) match rules permit professional contestants to use a combination of boxing, kicking,
14017 wrestling, hitting, punching, or other combative, contact techniques; and]

14018 [(c) match rules do not:]

14019 [(i) incorporate a formalized system of combative techniques against which a contestant's
14020 performance is judged to determine the prevailing contestant;]

14021 [(ii) divide a match into two or more equal and specified time periods for a match total of
14022 no more than 50 minutes; or]

14023 [(iii) prohibit contestants from:]

14024 [(A) using anything that is not part of the human body, except for boxing gloves, to
14025 intentionally inflict serious bodily injury upon an opponent through direct contact or the
14026 expulsion of a projectile;]

14027 [(B) striking a person who demonstrates an inability to protect himself from the advances
14028 of an opponent;]

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- 14029 [(C) biting; or]
- 14030 [(D) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the
- 14031 neck, and temple area of the head.]
- 14032 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 14033 (2) [~~Any person who~~] An actor commits participation in an ultimate fighting match if the
- 14034 actor publicizes, promotes, conducts, or engages in [an ultimate fighting] a live fighting
- 14035 match in which:
- 14036 (a) an admission fee is charged;
- 14037 (b) match rules permit professional contestants to use a combination of boxing, kicking,
- 14038 wrestling, hitting, punching, or other combative, contact techniques; and
- 14039 (c) match rules do not:
- 14040 (i) incorporate a formalized system of combative techniques against which a
- 14041 contestant's performance is judged to determine the prevailing contestant;
- 14042 (ii) divide a match into two or more equal and specified time periods for a match total
- 14043 of no more than 50 minutes; or
- 14044 (iii) prohibit contestants from:
- 14045 (A) using anything that is not part of the human body, except for boxing gloves, to
- 14046 intentionally inflict serious bodily injury upon an opponent through direct
- 14047 contact or the expulsion of a projectile;
- 14048 (B) striking an individual who demonstrates an inability to protect the individual's
- 14049 self from the advances of an opponent;
- 14050 (C) biting; or
- 14051 (D) using direct, intentional, and forceful strikes to the eyes, groin area, adam's
- 14052 apple area of the neck, or temple area of the head.
- 14053 (3) A violation of Subsection (2) is[guilty of] a class A misdemeanor.
- 14054 Section 255. Section **76-9-113**, which is renumbered from Section 76-10-2402 is renumbered
- 14055 and amended to read:
- 14056 ~~[76-10-2402]~~ **76-9-113 . Commercial obstruction.**
- 14057 (1)(a) As used in this section:
- 14058 (i)(A) "Building" means a watercraft, aircraft, trailer, sleeping car, or other
- 14059 structure or vehicle adapted for overnight accommodations of individuals or

14060 for carrying on business and includes:

14061 (I) each separately secured or occupied portion of the building or vehicle; and

14062 (II) each structure appurtenant or connected to the building or vehicle.

14063 (B) "Building" includes the commonly accepted meaning of building.

14064 (ii) "Business" means a retail business dealing in tangible personal property.

14065 (iii) "Enter" means:

14066 (A) an intrusion of any part of the body; or

14067 (B) the intrusion of any physical object under the control of the actor.

14068 (b) Terms defined in Section 76-1-101.5 apply to this section.

14069 ~~[(1)]~~ (2) ~~[(a) A person is guilty of a misdemeanor if the person-]~~ An actor commits

14070 commercial obstruction if the actor:

14071 (a) enters or remains unlawfully on the premises of or in a building of any business; and

14072 (b) ~~[-with the intent]~~ intends to interfere with the employees, customers, personnel, or

14073 operations of [a] the business[through any conduct that does not constitute an offense

14074 listed under Subsection (2)].

14075 ~~[(b)]~~ (3) A violation of Subsection ~~[(1)(a)]~~ (2) is a class A misdemeanor.

14076 ~~[(2) A person is guilty of felony commercial obstruction if the person enters or remains~~

14077 ~~unlawfully on the premises or in a building of any business with the intent to interfere~~

14078 ~~with the employees, customers, personnel, or operations of a business and also with the~~

14079 ~~intent to:]~~

14080 ~~[(a) obtain unauthorized control over any merchandise, property, records, data, or~~

14081 ~~proprietary information of the business;]~~

14082 ~~[(b) alter, eradicate, or remove any merchandise, records, data, or proprietary information~~

14083 ~~of the business;]~~

14084 ~~[(c) damage, deface, or destroy any property on the premises of the business;]~~

14085 ~~[(d) commit an assault on any person; or]~~

14086 ~~[(e) commit any other felony.]~~

14087 ~~[(3) A person who violates any provision in Subsection (2) is guilty of a second degree~~

14088 ~~felony.]~~

14089 (4) This section does not apply to:

14090 (a) an action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et

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14091 seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.
14092 [(5)] (b) [~~This section does not apply to a person's~~] an individual's exercise of the rights
14093 under the First Amendment to the Constitution of the United States or under [Article
14094 I, Sec. 15 of the]Utah Constitution, Article I, Section 15.

14095 Section 256. Section **76-9-114** is enacted to read:

14096 **76-9-114 . Aggravated commercial obstruction.**

14097 (1)(a) As used in this section:

14098 (i) "Building" means the same as that term is defined in Section 76-9-113.

14099 (ii) "Business" means the same as that term is defined in Section 76-9-113.

14100 (iii) "Enter" means the same as that term is defined in Section 76-9-113.

14101 (b) Terms defined in Section 76-1-101.5 apply to this section.

14102 (2) An actor commits aggravated commercial obstruction if the actor:

14103 (a) enters or remains unlawfully on the premises or in a building of any business;

14104 (b) intends to interfere with the employees, customers, personnel, or operations of the
14105 business; and

14106 (c) intends to:

14107 (i) obtain unauthorized control over any merchandise, property, records, data, or
14108 proprietary information of the business;

14109 (ii) alter, eradicate, or remove any merchandise, records, data, or proprietary
14110 information of the business;

14111 (iii) damage, deface, or destroy any property on the premises of the business;

14112 (iv) commit an assault on any person; or

14113 (v) commit any other felony.

14114 (3) A violation of Subsection (2) is a second degree felony.

14115 (4) This section does not apply to:

14116 (a) an action protected by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq.,
14117 or the Federal Railway Labor Act, 45 U.S.C. Sec.151 et seq; or

14118 (b) an individual's exercise of the rights under the First Amendment to the Constitution
14119 of the United States or under Utah Constitution, Article I, Section 15.

14120 Section 257. Section **76-9-601** is amended to read:

14121

Part 6. Offenses Concerning the Military and the Flag

14122 **76-9-601 . Abuse of a flag.**

14123 (1) Terms defined in Section 76-1-101.5 apply to this section.

14124 [(1)] (2) [A person is guilty of-] An actor commits abuse of a flag if [he] the actor:

14125 (a) [~~Intentionally~~] intentionally places any unauthorized inscription or other thing upon [
14126 any] a flag of the United States or of [any] a state of the United States;[-or]

14127 (b) [~~Knowingly~~] knowingly exhibits [~~any such~~] a flag of the United States or of a state of
14128 the United States with an unauthorized inscription or other thing, knowing the
14129 inscription or other thing [to be] is unauthorized;[-or]

14130 (c) [~~For purposes of advertising a product or service for sale or for distribution,-~~]affixes
14131 a representation of the flag of the United States or of a state of the United States to [
14132 the] a product or on [any] a display whereon the product or service is advertised for
14133 the purpose of advertising a product or service for sale or for distribution; or

14134 (d) [~~Knowingly~~] knowingly casts contempt upon the flag of the United States or of any
14135 state of the United States by publicly mutilating, defacing, defiling, burning, or
14136 trampling upon [~~it~~] the flag.

14137 [(2)] (3) [Abuse of a flag-] A violation of Subsection (2) is a class B misdemeanor.

14138 Section 258. Section **76-9-602**, which is renumbered from Section 76-9-706 is renumbered
14139 and amended to read:

14140 **~~[76-9-706]~~76-9-602 . False representation of the military .**

14141 (1)(a) As used in this section:

14142 [(a)] (i) "Military related organization" means a public or private society, order, or
14143 organization that:

14144 [(i)] (A) only accepts as a member, [~~a person~~] an individual, or the relative of [~~a~~
14145 ~~person~~] an individual, who is:

14146 [(A)] (I) a member of the military; or

14147 [(B)] (II) an honorably discharged member of the military; and

14148 [(ii)] (B) is organized for the purpose of:

14149 [(A)] (I) recognizing or honoring [~~a person~~] an individual for military service;

14150 [(B)] (II) assisting [~~a person~~] an individual described in Subsection (1)(a)(i) to
14151 lawfully associate with, or provide service with, other [~~people~~] individuals
14152 described in Subsection (1)(a)(i); or

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14153 ~~[(C)]~~ (III) provide support for, or assistance to, ~~[a person]~~ an individual
14154 described in Subsection (1)(a)(i).
14155 ~~[(b)]~~ (ii) "Service medal" means:
14156 ~~[(i)]~~ (A) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);
14157 ~~[(ii)]~~ (B) a distinguished service cross, as defined in 10 U.S.C 3742;
14158 ~~[(iii)]~~ (C) a Navy cross, as defined in 10 U.S.C. 6242;
14159 ~~[(iv)]~~ (D) an Air Force cross, as defined in 10 U.S.C. 8742;
14160 ~~[(v)]~~ (E) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;
14161 ~~[(vi)]~~ (F) a bronze star, as defined in 10 U.S.C. 1133;
14162 ~~[(vii)]~~ (G) a purple heart, as defined in 10 U.S.C. 1129;
14163 ~~[(viii)]~~ (H) any decoration or medal authorized by the Congress of the United
14164 States for the armed forces of the United States;
14165 ~~[(ix)]~~ (I) any service medal or badge awarded to members of the armed forces of
14166 the United States;
14167 ~~[(x)]~~ (J) any of the following Utah National Guard medals or ribbons:
14168 ~~[(A)]~~ (I) medal of valor;
14169 ~~[(B)]~~ (II) Utah cross;
14170 ~~[(C)]~~ (III) joint medal of merit;
14171 ~~[(D)]~~ (IV) Utah medal of merit;
14172 ~~[(E)]~~ (V) joint commendation medal;
14173 ~~[(F)]~~ (VI) commendation medal;
14174 ~~[(G)]~~ (VII) achievement ribbon;
14175 ~~[(H)]~~ (VIII) joint staff service ribbon;
14176 ~~[(I)]~~ (IX) state partnership service ribbon;
14177 ~~[(J)]~~ (X) service ribbon;
14178 ~~[(K)]~~ (XI) military funeral honors service ribbon;
14179 ~~[(L)]~~ (XII) emergency service ribbon; or
14180 ~~[(M)]~~ (XIII) recruiting ribbon;
14181 ~~[(xi)]~~ (K) any ribbon, button, or rosette for a decoration, medal, or badge described
14182 in Subsections ~~[(1)(b)(i) through (x)]~~ (1)(a)(ii)(A) through (J); or
14183 ~~[(xii)]~~ (L) an imitation of a decoration, medal, badge, ribbon, button, or rosette

14184 described in Subsections ~~[(1)(b)(i) through (xi)]~~ (1)(a)(ii)(A) through (K).

14185 (b) Terms defined in Section 76-1-101.5 apply to this section.

14186 (2) ~~[Any person who]~~ An actor commits false representation of the military if the actor:

14187 (a) intentionally makes a false representation, verbally or in writing, that the [person]
14188 actor has been awarded a service medal~~[is guilty of an infraction.]~~ ;

14189 ~~[(3)]~~ (b)(i) ~~[Any person who wears,]~~ purchases, attempts to purchase, solicits for
14190 purchase, mails, ships, imports, exports, produces blank certificates of receipt for,
14191 manufactures, sells, attempts to sell, advertises for sale, trades, barter, or
14192 exchanges for anything of value a service medal, or [any] a colorable imitation [
14193 thereof, except when authorized by federal law, or under regulations made
14194 pursuant to federal law,] of a service medal; and

14195 (ii) ~~[with the intent]~~ intends to defraud~~;~~ another individual or ~~[with the intent]~~ to
14196 falsely represent that the [person] actor or another [person] individual has been
14197 awarded a service medal~~[is guilty of an infraction.]~~ ;

14198 ~~[(4)]~~ (c) ~~[A person is guilty of an infraction if the person]~~ wears or uses a service medal
14199 of a military related organization:

14200 ~~[(a)]~~ (i) that the [person] actor is not entitled to wear or use; and

14201 ~~[(b)]~~ (ii) ~~[with the intent to]~~ with the intention to defraud another individual or ~~[with~~
14202 the intent] to falsely represent that the [person] actor or another [person] individual
14203 has been awarded the service medal~~;~~ ; or

14204 ~~[(5)]~~ (d) ~~[A person is guilty of an infraction if the person]~~ uses the name, an officer title,
14205 an insignia, a ritual, or a ceremony of a military related organization:

14206 ~~[(a)]~~ (i) that the [person] actor is not entitled to use; and

14207 ~~[(b)]~~ (ii) ~~[with the intent]~~ with the intention to defraud~~;~~ or ~~[with the intent to]~~ falsely
14208 represent that the [person] actor or another [person] individual was or is a member,
14209 representative, or officer of the military related organization.

14210 (3) A violation of Subsection (2) is an infraction.

14211 (4) Subsection (2)(b) does not apply if the actor is authorized under a federal law or a
14212 federal regulation to undertake the conduct described.

14213 Section 259. Section **76-9-802** is amended to read:

14214 **Part 8. Criminal Gang Related Offenses**

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14215 **76-9-802 . Definitions.**

14216 As used in this part:

- 14217 (1) "Criminal street gang" means an organization, association in fact, or group of three or
14218 more ~~[persons]~~ individuals, whether operated formally or informally:
- 14219 (a) that is currently in operation;
 - 14220 (b) that has as one of ~~[its]~~ the organization's, association's, or group's primary activities
14221 the commission of one or more predicate gang crimes;
 - 14222 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
 - 14223 (d) whose members, acting individually or in concert with other members, engage in or
14224 have engaged in a pattern of criminal gang activity.
- 14225 ~~[(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
14226 harm for the purpose of causing an individual to act or refrain from acting.]~~
- 14227 (2) "Gang loitering" means an individual remains in one place under circumstances that
14228 would cause a reasonable person to believe that the purpose or effect of that behavior is
14229 to enable or facilitate a criminal street gang to:
- 14230 (a) establish control over one or more identifiable areas;
 - 14231 (b) intimidate other individuals from entering those areas; or
 - 14232 (c) conceal illegal activities.
- 14233 (3) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
14234 harm for the purpose of causing an individual to act or refrain from acting.
- 14235 ~~[(3)]~~ (4) "Minor" means ~~[a person]~~ an individual younger than 18 years old.
- 14236 ~~[(4)]~~ (5) "Pattern of criminal gang activity" means:
- 14237 (a) committing, attempting to commit, conspiring to commit, or soliciting the
14238 commission of two or more predicate gang crimes within five years;
 - 14239 (b) the predicate gang crimes are:
 - 14240 (i) committed by two or more persons; or
 - 14241 (ii) committed by an individual at the direction of, or in association with, a criminal
14242 street gang; and
 - 14243 (c) the criminal activity was committed with the specific intent to promote, further, or
14244 assist in any criminal conduct by members of the criminal street gang.
- 14245 ~~[(5)]~~ (6)(a) "Predicate gang crime" means any of the following offenses:

- 14246 (i) Title 41, Chapter 1a, Motor Vehicle Act:
- 14247 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
- 14248 identification number;
- 14249 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 14250 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 14251 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
- 14252 identification number; or
- 14253 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
- 14254 number;
- 14255 (ii) any criminal violation of the following provisions:
- 14256 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 14257 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 14258 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 14259 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 14260 (iii) ~~[Sections]~~ assault as described in Section 76-5-102~~[-through]~~ ;
- 14261 (iv) aggravated assault by prisoner as described in Section 76-5-103.5~~[-which~~
- 14262 ~~address-assault-offenses]~~;
- 14263 ~~[(iv)]~~ (v) an offense described in~~[Title 76,]~~ Chapter 5, Part 2, Criminal Homicide;
- 14264 ~~[(v)]~~ (vi) ~~[Sections]~~ kidnapping as described in Section 76-5-301;
- 14265 (vii) child kidnapping as described in Section 76-5-301.1;
- 14266 (viii) parental kidnapping as described in Section 76-5-301.2;
- 14267 (ix) aggravated kidnapping as described in Section 76-5-302;
- 14268 (x) custodial interference as described in Section 76-5-303;
- 14269 (xi) ~~[-through 76-5-304, which address kidnapping and related offenses]~~ unlawful
- 14270 detention and unlawful detention of a minor as described in Section 76-5-304;
- 14271 ~~[(vi)]~~ (xii) a felony offense ~~[under]~~ described in~~[-Title 76,]~~ Chapter 5, Part 4, Sexual
- 14272 Offenses, except Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;
- 14273 ~~[(vii)]~~ (xiii) an offense described in~~[Title 76,]~~ Chapter 6, Part 1, Property Destruction;
- 14274 ~~[(viii)]~~ (xiv) an offense described in~~[Title 76,]~~ Chapter 6, Part 2, Burglary and
- 14275 Criminal Trespass;
- 14276 ~~[(ix)]~~ (xv) an offense described in~~[Title 76,]~~ Chapter 6, Part 3, Robbery;

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14277 ~~[(x)]~~ (xvi) a felony offense ~~[under]~~ described in~~[Title 76,]~~ Chapter 6, Part 4, Theft,
14278 or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5,
14279 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6,
14280 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

14281 ~~[(xi)]~~ (xvii) an offense described in~~[Title 76,]~~ Chapter 6, Part 5, Fraud, except
14282 Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511,
14283 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

14284 ~~[(xii)]~~ (xviii) an offense described in~~[Title 76,]~~ Chapter 6, Part 11, Identity Fraud Act;
14285 ~~[(xiii)]~~ (xix) an offense described in~~[Title 76,]~~ Chapter 8, Part 3, Obstructing
14286 Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307,
14287 76-8-308, and 76-8-312;

14288 ~~[(xiv)]~~ (xx) tampering with a witness ~~[under]~~ as described in Section 76-8-508;

14289 ~~[(xv)]~~ (xxi) retaliation against a witness, victim, or informant ~~[under]~~ as described in
14290 Section 76-8-509.3;

14291 ~~[(xvi)]~~ (xxii) receiving or soliciting a bribe as a witness ~~[under]~~ as described in Section
14292 76-8-508.7;

14293 ~~[(xvii)]~~ (xxiii) extortion or bribery to dismiss a criminal proceeding ~~[under]~~ as
14294 described in Section 76-8-509;

14295 ~~[(xviii)]~~ (xxiv) a misdemeanor violation of disorderly conduct ~~[under]~~ as described in
14296 Section 76-9-102, if the violation occurs at an official meeting;

14297 ~~[(xix)]~~ (xxv) an offense described in Chapter 9, Part 15, Criminal Offenses Relating to Bus
14298 Passenger Safety;

14299 ~~[(xx)]~~ (xxvi) an offense described in Chapter 9, Part 16, Money Laundering and Currency
14300 Transaction Reporting;

14301 ~~[(xxi)]~~ (xxvii) an offense described in Chapter 11, Weapons;

14302 ~~[(xix)]~~ (xxviii) ~~[Title 76, Chapter 10, Part 3, Explosives]~~ an offense described in
14303 Chapter 15, Part 2, Explosives; or

14304 ~~[(xx)]~~ Title 76, Chapter 10, Part 5, Weapons;

14305 ~~[(xxi)]~~ Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

14306 ~~[(xxii)]~~ (xxix) ~~[Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]~~ an
14307 offense described in Chapter 17, Part 4, Offenses Concerning Patterns of

14308 Unlawful Activity.
14309 [~~(xxiii) communications fraud under Section 76-10-1801;~~]
14310 [~~(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction~~
14311 ~~Reporting Act; or]~~
14312 [~~(xxv) burglary of a research facility under Section 76-10-2002.]~~
14313 (b) "Predicate gang crime" [~~also~~] includes:
14314 (i) [~~any~~] a state or federal criminal offense that by [~~its~~] the offense's nature involves a
14315 substantial risk that physical force may be used against another individual in the
14316 course of committing the offense; and
14317 (ii) [~~any~~] a felony violation of a criminal statute of [~~any other~~] another state, the
14318 United States, or [~~any~~] a district, possession, or territory of the United States which
14319 would constitute a violation of any offense in Subsection [~~(4)(a)~~] (6)(a) if
14320 committed in this state.
14321 (7)(a) "Public place" means any location or structure that the public or a substantial
14322 group of the public has access to.
14323 (b) "Public place" includes:
14324 (i) a sidewalk, street, or highway;
14325 (ii) a public park, public recreation facility, or any other area open to the public;
14326 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or
14327 playhouse;
14328 (iv) a parking lot or structure adjacent to a shopping mall, sports facility, stadium,
14329 arena, theater, movie house, or playhouse;
14330 (v) a common area of a school, hospital, apartment building, office building,
14331 transport facility, or a business; and
14332 (vi) a lobby, hallway, elevator, restaurant or other dining area, or restroom of a
14333 location or structure described in Subsections (7)(b)(i) through (v).
14334 Section 260. Section **76-9-803** is amended to read:
14335 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
14336 **criminal street gang.**
14337 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
14338 [~~(1)~~] (2) [~~It is a class B misdemeanor to~~] An actor commits soliciting, recruiting, enticing, or

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- 14339 intimidating a minor to join a criminal street gang if the actor:
- 14340 (a) [~~solicit, recruit, entice, or intimidate~~] solicits, recruits, entices, or intimidates a minor
- 14341 to join a criminal street gang [~~whether or not the minor actually joins the criminal~~
- 14342 street gang];
- 14343 (b) [~~conspire~~] conspires to commit [~~any~~] an act [~~under~~] described in Subsection [(1)(a)]
- 14344 (2)(a) with the intent to cause a minor to join a criminal street gang; or
- 14345 (c) [~~use~~] uses intimidation to prevent, or attempt to prevent, a minor from leaving a
- 14346 criminal street gang or ending the minor's affiliation with a criminal street gang.
- 14347 (3) A violation of Subsection (2) is a class B misdemeanor.
- 14348 [(2) It is a class A misdemeanor for any person who is a member of or actively involved
- 14349 with a criminal street gang to:]
- 14350 [(a) intimidate or otherwise cause a minor to commit or attempt to commit any
- 14351 misdemeanor criminal offense; or
- 14352 [(b) commit a violation of Subsection (1)(a):]
- 14353 [(i) more than once;]
- 14354 [(ii) regarding the same minor; and]
- 14355 [(iii) within a period of 180 days.]
- 14356 [(3) Prosecution for any offense under this section does not prohibit prosecution for any
- 14357 other criminal offense.]
- 14358 (4) It is not a defense to a prosecution under Subsection (2)(a) that the minor did not join
- 14359 the criminal street gang.
- 14360 Section 261. Section **76-9-803.5** is enacted to read:
- 14361 **76-9-803.5 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
- 14362 **criminal street gang by a gang member.**
- 14363 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 14364 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
- 14365 criminal street gang by a gang member if the actor:
- 14366 (a) is a member of, or actively involved with, a criminal street gang; and
- 14367 (b) solicits, recruits, entices, or intimidates a specific minor to join a criminal street gang
- 14368 more than once within a period of 180 days.
- 14369 (3) A violation of Subsection (2) is a class A misdemeanor.

14370 (4) It is not a defense to a prosecution under this section that the minor described in
14371 Subsection (2) did not join a criminal street gang.
14372 Section 262. Section **76-9-803.6** is enacted to read:
14373 **76-9-803.6 . Intimidating or causing a minor to commit a misdemeanor by a gang**
14374 **member.**

14375 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
14376 (2) An actor commits intimidating or causing a minor to commit a misdemeanor by a gang
14377 member if the actor:
14378 (a) is a member of, or actively involved with, a criminal street gang; and
14379 (b) intimidates or otherwise causes a minor to commit or attempt to commit a
14380 misdemeanor criminal offense.

14381 (3) A violation of Subsection (2) is a class A misdemeanor.

14382 Section 263. Section **76-9-804** is amended to read:
14383 **76-9-804 . Possession of a dangerous weapon by a convicted criminal gang**
14384 **offender.**

14385 (1)(a) As used in this section, "dangerous weapon" means the same as that term is
14386 defined in Sections 76-1-101.5 and 76-11-101.

14387 (b) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

14388 [~~(1)~~] (2) [~~A person who has been convicted of a crime for which the penalty was enhanced~~
14389 ~~under Section 76-3-203.1 may not, except where a greater penalty is applicable under~~
14390 ~~this title,] An actor commits possession of a dangerous weapon by a convicted criminal
14391 gang offender if:~~

14392 (a) the actor possess a dangerous weapon[~~as defined in either Section 76-1-101.5 or~~
14393 76-10-501], ammunition, or a facsimile of a firearm; and

14394 (b) [~~-~~] the actor's possession described in Subsection (2)(a) occurs within five years [after
14395 the conviction] after the day on which the actor was convicted of an offense that was
14396 enhanced under Section 76-3-203.1.

14397 [~~(2)~~] (3) A violation of Subsection [~~(1)~~] (2) is a class A misdemeanor.

14398 Section 264. Section **76-9-805**, which is renumbered from Section 76-9-904 is renumbered
14399 and amended to read:

14400 **[76-9-904]76-9-805 . Failure to disperse.**

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- 14401 ~~[(1)(a) Failure to comply with an order issued under Subsection 76-9-903(1)(b) to disperse~~
14402 ~~is a class B misdemeanor of failure to disperse.]~~
- 14403 ~~[(b) Any second and subsequent violation of Subsection (1)(a) is a class B misdemeanor of~~
14404 ~~failure to disperse and is subject to a fine of not less than \$100, unless the court finds~~
14405 ~~mitigating circumstances justifying a lesser punishment and makes that finding a part of~~
14406 ~~the court record.]~~
- 14407 ~~[(2)(a) A person is guilty of a class B misdemeanor of subsequent failure to disperse who:]~~
14408 ~~[(i) is present in a public place with or as part of a group of two or more persons, and that~~
14409 ~~group includes one or more persons a peace officer reasonably believes to be a member~~
14410 ~~of a criminal street gang; and]~~
14411 ~~[(ii) is within sight or hearing of a location where a law enforcement officer issued an~~
14412 ~~order to the person to disperse under Section 76-9-903 within the prior eight hours:]~~
- 14413 ~~[(b) A violation of Subsection (2)(a) is subject to a fine of not less than \$100, unless the~~
14414 ~~court finds mitigating circumstances justifying a lesser punishment and makes that~~
14415 ~~finding a part of the court record.]~~
- 14416 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 14417 (2) An actor commits failure to disperse if the actor:
- 14418 (a) is in a place designated as an area where gang loitering is prohibited under Section
14419 11-48-104;
- 14420 (b) is ordered by a law enforcement officer under Section 53-25-602 to disperse from
14421 within sight and hearing of the location described in Subsection (2)(a); and
- 14422 (c)(i) fails to disperse as ordered in Subsection (2)(b); or
14423 (ii) disperses and then returns to the location within the next eight hours after
14424 receiving the order to disperse under Subsection (2)(b).
- 14425 (3)(a) Subject to Subsection (3)(b), a violation of Subsection (2) is a class B
14426 misdemeanor.
- 14427 (b) In addition to the punishment described in Subsection (3)(a), a subsequent violation
14428 of Subsection (2) is subject to a fine of not less than \$100.
- 14429 (4) A court may sentence an actor under Subsection (3)(b) with a lesser punishment if the
14430 court, on the record, finds that mitigating circumstances justify the lesser punishment.
- 14431 (5) This section does not affect or limit an actor's constitutional right to engage in collective

14432 advocacy activities that are protected by the constitution or laws of this state or by the
14433 constitution or laws of the United States.

14434 Section 265. Section **76-9-1101**, which is renumbered from Section 76-10-101 is renumbered
14435 and amended to read:

14436 **Part 11. Cigarettes, Tobacco, and Psychotoxic Chemical Solvents**

14437 **~~[76-10-101]~~76-9-1101 . Definitions.**

14438 As used in this part:

- 14439 (1)(a) "Alternative nicotine product" means a product, other than a cigarette, a
14440 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine
14441 product, or a tobacco product, that:
- 14442 (i) contains nicotine;
 - 14443 (ii) is intended for human consumption;
 - 14444 (iii) is not purchased with a prescription from a licensed physician; and
 - 14445 (iv) is not approved by the United States Food and Drug Administration as nicotine
14446 replacement therapy.
- 14447 (b) "Alternative nicotine product" includes:
- 14448 (i) pure nicotine;
 - 14449 (ii) snortable nicotine;
 - 14450 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
 - 14451 (iv) nicotine-laced food and beverage.
- 14452 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
14453 contains naturally occurring nicotine.
- 14454 (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary
14455 conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any
14456 substance containing tobacco, other than any roll of tobacco that is a cigarette.
- 14457 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned
14458 under ordinary conditions of use, and consists of:
- 14459 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
 - 14460 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
14461 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is
14462 likely to be offered to, or purchased by, consumers as a cigarette described in

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- 14463 Subsection (3)(a).
- 14464 (4)(a) "Electronic cigarette" means:
- 14465 (i) [~~any~~] an electronic oral device:
- 14466 (A) that provides an aerosol or a vapor of nicotine or other substance; and
- 14467 (B) [~~which~~] that simulates smoking through the use or inhalation of the device;
- 14468 (ii) a component of the device described in Subsection (4)(a)(i); or
- 14469 (iii) an accessory sold in the same package as the device described in Subsection
- 14470 (4)(a)(i).
- 14471 (b) "Electronic cigarette" includes an oral device that is:
- 14472 (i) composed of a heating element, battery, or electronic circuit; and
- 14473 (ii) marketed, manufactured, distributed, or sold as:
- 14474 (A) an e-cigarette;
- 14475 (B) an e-cigar;
- 14476 (C) an e-pipe; or
- 14477 (D) any other product name or descriptor, if the function of the product meets the
- 14478 definition of Subsection (4)(a).
- 14479 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is
- 14480 defined in Section 26B-4-201.
- 14481 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
- 14482 substance, or a prefilled electronic cigarette.
- 14483 (6) "Electronic cigarette substance" means any substance, including liquid containing
- 14484 nicotine, used or intended for use in an electronic cigarette.
- 14485 (7)(a) "Flavored electronic cigarette product" means an electronic cigarette product that
- 14486 has a taste or smell that is distinguishable by an ordinary consumer either before or
- 14487 during use or consumption of the electronic cigarette product.
- 14488 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is
- 14489 labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy,
- 14490 cocoa, dessert, alcoholic beverage, herb, spice, or mint.
- 14491 (c) "Flavored electronic cigarette product" does not include an electronic cigarette
- 14492 product that has a taste or smell of only tobacco or menthol.
- 14493 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically

- 14494 or derived from tobacco or other plants.
- 14495 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine
14496 product.
- 14497 (10)(a) "Nontherapeutic nicotine device" means a device that:
- 14498 (i) has a pressurized canister that is used to administer nicotine to the user through
14499 inhalation or intranasally;
- 14500 (ii) is not purchased with a prescription from a licensed physician; and
- 14501 (iii) is not approved by the United States Food and Drug Administration as nicotine
14502 replacement therapy.
- 14503 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
14504 nontherapeutic nicotine nasal spray.
- 14505 (11) "Nontherapeutic nicotine device substance" means a substance that:
- 14506 (a) contains nicotine;
- 14507 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;
- 14508 (c) is not purchased with a prescription from a licensed physician; and
- 14509 (d) is not approved by the United States Food and Drug Administration as nicotine
14510 replacement therapy.
- 14511 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
14512 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.
- 14513 (13) "Place of business" includes:
- 14514 (a) a shop;
- 14515 (b) a store;
- 14516 (c) a factory;
- 14517 (d) a public garage;
- 14518 (e) an office;
- 14519 (f) a theater;
- 14520 (g) a recreation hall;
- 14521 (h) a dance hall;
- 14522 (i) a poolroom;
- 14523 (j) a cafe;
- 14524 (k) a cafeteria;

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- 14525 (l) a cabaret;
- 14526 (m) a restaurant;
- 14527 (n) a hotel;
- 14528 (o) a lodging house;
- 14529 (p) a streetcar;
- 14530 (q) a bus;
- 14531 (r) an interurban or railway passenger coach;
- 14532 (s) a waiting room; and
- 14533 (t) any other place of business.
- 14534 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with
- 14535 an electronic cigarette substance.
- 14536 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that
- 14537 is sold prefilled with a nontherapeutic nicotine device substance.
- 14538 (16) "Premarket authorized or pending electronic cigarette product" means an electronic
- 14539 cigarette product that:
- 14540 (a)(i) has been approved by an order granting a premarket tobacco product
- 14541 application of the electronic cigarette product by the United States Food and Drug
- 14542 Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or
- 14543 (ii)(A) was marketed in the United States on or before August 8, 2016;
- 14544 (B) the manufacturer submitted a premarket tobacco product application for the
- 14545 electronic cigarette product to the United States Food and Drug Administration
- 14546 under 21 U.S.C. Sec. 387j on or before September 9, 2020; and
- 14547 (C) has an application described in Subsection (16)(a)(ii) that either remains under
- 14548 review by the United States Food and Drug Administration or a final decision
- 14549 on the application has not taken effect; and
- 14550 (b) does not exceed:
- 14551 (i) 4.0% nicotine by weight per container; or
- 14552 (ii) a nicotine concentration of 40 milligrams per milliliter.
- 14553 (17) "Retail tobacco specialty business" means the same as that term is defined in Section
- 14554 26B-7-501.
- 14555 (18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted

14556 smoking equipment.

14557 (19)(a) "Tobacco paraphernalia" means equipment, product, or material of any kind that
14558 is used, intended for use, or designed for use to package, repackage, store, contain,
14559 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic
14560 cigarette substance, or a nontherapeutic nicotine device substance into the human
14561 body.

14562 (b) "Tobacco paraphernalia" includes:

14563 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
14564 screens, permanent screens, hashish heads, or punctured metal bowls;

14565 (ii) water pipes;

14566 (iii) carburetion tubes and devices;

14567 (iv) smoking and carburetion masks;

14568 (v) roach clips, meaning objects used to hold burning material, such as a cigarette,
14569 that has become too small or too short to be held in the hand;

14570 (vi) chamber pipes;

14571 (vii) carburetor pipes;

14572 (viii) electric pipes;

14573 (ix) air-driven pipes;

14574 (x) chillums;

14575 (xi) bongs; and

14576 (xii) ice pipes or chillers.

14577 (c) "Tobacco paraphernalia" does not include matches or lighters.

14578 (20) "Tobacco product" means:

14579 (a) a cigar;

14580 (b) a cigarette; or

14581 (c) tobacco in any form, including:

14582 (i) chewing tobacco; and

14583 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

14584 (21) "Tobacco retailer" means:

14585 (a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

14586 (b) a retail tobacco specialty business.

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14587 Section 266. Section **76-9-1102**, which is renumbered from Section 76-10-102 is renumbered
14588 and amended to read:

14589 **[76-10-102]76-9-1102 . Cigarette or tobacco advertising violation.**

14590 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14591 (2) Except as provided in Subsection (4), an actor commits cigarette or tobacco advertising
14592 violation if the actor~~[It is a class B misdemeanor for any person to display-]~~ displays on [
14593 any] a billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of
14594 display, [any] an advertisement of cigarettes, cigarette papers, cigars, chewing tobacco,
14595 or smoking tobacco or any disguise or substitute of cigarettes, cigarette papers, tobacco,
14596 or cigars.~~[either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or~~
14597 ~~their substitutes, may have a sign on the front of his place of business stating that he is a~~
14598 ~~dealer in the articles; provided that nothing herein shall be construed to prohibit the~~
14599 ~~advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any~~
14600 ~~substitute of either, in any newspaper, magazine or periodical printed or circulating in~~
14601 ~~this state.]~~

14602 (3) A violation of Subsection (2) is a class B misdemeanor.

14603 (4)(a) A dealer of cigarettes, cigarette papers, tobacco, cigars, or a substitute for
14604 cigarettes, cigarette papers, tobacco, or cigars may have a sign on the front of the
14605 dealer's place of business stating that the dealer is a dealer of cigarettes, cigarette
14606 papers, tobacco, cigars, or a substitute for cigarettes, cigarette papers, tobacco, or
14607 cigars.

14608 (b) This section does not prohibit the advertisement of an item listed in Subsection (4)(a)
14609 in a newspaper, magazine or periodical printed or circulating in this state.

14610 [(2) Any advertisement for smokeless tobacco placed in a newspaper, magazine, or
14611 periodical published in this state must bear a warning which states: "Use of smokeless
14612 tobacco may cause oral cancer and other mouth disorders and is addictive." This
14613 warning must be in a conspicuous location and in conspicuous and legible type, in
14614 contrast with the typography, layout, and color of all other printed material in the
14615 advertisement. For purposes of this subsection, "smokeless tobacco" means any finely
14616 cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity or
14617 nasal passage. In the event the United States Congress passes legislation which requires

14618 warnings in advertisements of smokeless tobacco, the specific language required to be
14619 placed in advertisements by that legislation shall take precedence over this subsection.]

14620 Section 267. Section **76-9-1103**, which is renumbered from Section 76-10-103 is renumbered
14621 and amended to read:

14622 **[76-10-103]76-9-1103 . Permitting a minor to use a tobacco product, electronic cigarette**
14623 **product, or nicotine product in a place of business.**

14624 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14625 (2) An actor commits permitting a minor to use a tobacco product, electronic cigarette
14626 product, or nicotine product in a place of business if the actor:

14627 (a) is a proprietor of a place of business; and

14628 (b) [It is a class C misdemeanor for the proprietor of any place of business to
14629 knowingly permit-] knowingly permits an individual under 21 years old to frequent [a]
14630 the actor's place of business while the individual is using a tobacco product, an
14631 electronic cigarette product, or a nicotine product.

14632 (3) A violation of Subsection (2) is a class C misdemeanor.

14633 Section 268. Section **76-9-1104**, which is renumbered from Section 76-10-104 is renumbered
14634 and amended to read:

14635 **[76-10-104]76-9-1104 . Providing a cigar, a cigarette, an electronic cigarette product, a**
14636 **nicotine product, or tobacco to a minor.**

14637 (1)(a) As used in this section, "provides":

14638 [(a)] (i) includes selling, giving, furnishing, sending, or causing to be sent; and

14639 [(b)] (ii) does not include the acts: [-]

14640 (A) of the United States Postal Service or other common carrier when engaged in
14641 the business of transporting and delivering packages for others; or

14642 (B) [-or the acts-]of a person, whether compensated or not, who transports or
14643 delivers a package for another person without any reason to know of the
14644 package's content.

14645 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14646 (2) [An individual who-] Except as provided in Subsection (4), an actor commits providing a
14647 cigar, cigarette, electronic cigarette product, nicotine product, or tobacco to a minor if
14648 the actor knowingly, intentionally, recklessly, or with criminal negligence provides a

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14649 tobacco product, an electronic cigarette product, or a nicotine product to an individual
14650 who is under 21 years old[~~;~~ ~~is guilty of:~~]

14651 [~~(a) a class C misdemeanor on the first offense;~~]

14652 [~~(b) a class B misdemeanor on the second offense; and]~~

14653 [~~(c) a class A misdemeanor on any subsequent offense].~~

14654 (3) A violation of Subsection (2) is:

14655 (a) a class C misdemeanor on the first offense;

14656 (b) a class B misdemeanor on the second offense; or

14657 (c) a class A misdemeanor on the third or subsequent offense.

14658 [~~(3)~~] (4) This section does not apply to conduct of an employee of a tobacco retailer that is a
14659 violation of Section [~~76-10-114~~] 76-9-1116.

14660 Section 269. Section **76-9-1105**, which is renumbered from Section 76-10-104.1 is renumbered
14661 and amended to read:

14662 **[~~76-10-104.1~~] 76-9-1105 . Providing tobacco paraphernalia to a minor.**

14663 (1)(a) As used in this section, "provides"[~~;~~] means the same as that term is defined in
14664 Section 76-9-1104.

14665 (a) ~~includes selling, giving, furnishing, sending, or causing to be sent; and]~~

14666 (b) ~~does not include the acts of the United States Postal Service or other common~~
14667 ~~carrier when engaged in the business of transporting and delivering packages for~~
14668 ~~others or the acts of a person, whether compensated or not, who transports or~~
14669 ~~delivers a package for another person without any reason to know of the package's~~
14670 ~~content.]~~

14671 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14672 (2)[~~(a) It is unlawful for an individual to-] An actor commits providing tobacco
14673 paraphernalia to a minor if the actor knowingly, intentionally, recklessly, or with
14674 criminal negligence provide tobacco paraphernalia to an individual under 21 years
14675 old.~~

14676 [~~(b)~~] (3) [~~An individual who violates this section is guilty of:] A violation of Subsection (2)
14677 is:~~

14678 [(i)] (a) a class C misdemeanor on the first offense; [and] or

14679 [(ii)] (b) a class B misdemeanor on [any] a subsequent offense.

14680 Section 270. Section **76-9-1106**, which is renumbered from Section 76-10-105 is renumbered
14681 and amended to read:

14682 **[76-10-105]76-9-1106 . Buying or possessing a tobacco product or an electronic cigarette**
14683 **product by a minor.**

14684 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14685 (2) ~~[An individual who]~~ An actor commits buying or possessing a tobacco product or an
14686 electronic cigarette product by a minor if the actor: [is 18 years old or older, but]

14687 (a) ~~[-] is younger than 21 years old[,-and who] ; and~~

14688 (b) ~~[-]buys or attempts to buy, accepts, or has in the [individual's] actor's possession a~~
14689 ~~tobacco product, an electronic cigarette product, or a nicotine product[-is:] .~~

14690 ~~[(a) guilty of an infraction; and]~~

14691 ~~[(b) subject to:]~~

14692 ~~[(i) a minimum fine or penalty of \$60; and]~~

14693 ~~[(ii) participation in a court-approved tobacco education or cessation program, which~~
14694 ~~may include a participation fee.]~~

14695 ~~[(2)] (3)(a) If the actor is 18 years old or older but younger than 21 years old, a violation~~
14696 ~~of Subsection (2) is:~~

14697 ~~(i) an infraction; and~~

14698 ~~(ii) subject to:~~

14699 ~~(A) a minimum fine or penalty of \$60; and~~

14700 ~~(B) participation in a court-approved tobacco education or cessation program,~~
14701 ~~which may include a participation fee.~~

14702 (b) ~~[An individual who is under 18 years old and who buys or attempts to buy, accepts,~~
14703 ~~or has in the individual's possession a tobacco product, an electronic cigarette~~
14704 ~~product, or a nicotine product is subject to-] If the actor is under 18 years old, a
14705 violation of Subsection (2) is a citation under Section 80-6-302, unless the violation
14706 is committed on school property under Section 53G-8-211.~~

14707 ~~[(b)] (c) If a violation under this section is adjudicated under Section 80-6-701, the minor~~
14708 ~~may be subject to the following:~~

14709 (i) a fine or penalty, in accordance with Section 80-6-709; and

14710 (ii) participation in a court-approved tobacco education program, which may include

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14711 a participation fee.

14712 [(3)] (4)(a) A compliance officer appointed by a board of education under Section
14713 53G-4-402 may not issue a citation for a violation of this section committed on
14714 school property.

14715 (b) A cited violation committed on school property shall be addressed in accordance
14716 with Section 53G-8-211.

14717 Section 271. Section **76-9-1107**, which is renumbered from Section 76-10-105.1 is renumbered
14718 and amended to read:

14719 **[76-10-105.1]76-9-1107 . Illegal indirect sale of a tobacco product, an electronic cigarette**
14720 **product, or a nicotine product.**

14721 (1)(a) As used in this section:

14722 [(a)] (i)[(i)] (A) "Face-to-face exchange" means a transaction made in person
14723 between an individual and a retailer or retailer's employee.

14724 [(ii)] (B) "Face-to-face exchange" does not include a sale through a vending
14725 machine or a self-service display.[:]

14726 [(A) vending machine; or]

14727 [(B) self-service display.]

14728 [(b)] (ii) "Retailer" means a person who:

14729 [(i)] (A) sells a tobacco product, an electronic cigarette product, or a nicotine
14730 product to an individual for personal consumption; or

14731 [(ii)] (B) operates a facility with a vending machine that sells a tobacco product, an
14732 electronic cigarette product, or a nicotine product.

14733 [(e)] (iii) "Self-service display" means a display of a tobacco product, an electronic
14734 cigarette product, or a nicotine product to which the public has access without the
14735 intervention of a retailer or retailer's employee.

14736 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14737 (2) Except as provided in Subsection [(3), a retailer may sell] (4), an actor commits illegal
14738 indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product if
14739 the actor:

14740 (a) is a retailer; and

14741 (b) sells a tobacco product, an electronic cigarette product, or a nicotine product [only]

14742 in a manner that does not include a face-to-face exchange.

14743 (3) A violation of Subsection (2) is:

14744 (a) a class C misdemeanor on the first offense;

14745 (b) a class B misdemeanor on the second offense; or

14746 (c) a class A misdemeanor on the third or subsequent offense.

14747 [(3)] (4) The face-to-face sale requirement in Subsection (2) does not apply to:

14748 (a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

14749 (b) a sale from a vending machine or self-service display that is located in an area of a
14750 retailer's facility:

14751 (i) that is distinct and separate from the rest of the facility; and

14752 (ii) where the retailer only allows an individual who is under 21 years old to be
14753 present if the individual: [who complies with Subsection (4) to be present]

14754 (A) is accompanied by the actor's parent or legal guardian; or

14755 (B)(I) is present solely for the purpose of providing a service to the business,
14756 including making a delivery;

14757 (II) is monitored by the proprietor business or an employee of the business; and

14758 (III) is not permitted to make any purchase or conduct any commercial
14759 transaction other than the service described in Subsection (4)(b)(ii)(B)(II); or

14760 (c) a sale at a retail tobacco specialty business.

14761 [(4) An individual who is under 21 years old may not enter or be present at a retail tobacco
14762 specialty business unless the individual is:]

14763 [(a) accompanied by a parent or legal guardian; or]

14764 [(b)(i) present at the retail tobacco specialty business solely for the purpose of providing a
14765 service to the retail tobacco specialty business, including making a delivery;]

14766 [(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of
14767 the retail tobacco specialty business; and]

14768 [(iii) not permitted to make any purchase or conduct any commercial transaction other than
14769 the service described in Subsection (4)(b)(i).]

14770 (5)(a) [A-] An individual's parent or legal guardian who accompanies[-, under Subsection

14771 (4)(a),-] an individual into an area described in Subsection [(3)(b) or into a retail

14772 tobacco specialty business] (4)(b)(ii)(A) may not allow the individual to purchase a

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- 14773 tobacco product, an electronic cigarette product, or a nicotine product.
- 14774 (b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.
- 14775 [~~(6) A violation of Subsection (2) or (4) is a:~~
- 14776 ~~[(a) class C misdemeanor on the first offense;]~~
- 14777 ~~[(b) class B misdemeanor on the second offense; and]~~
- 14778 ~~[(c) class A misdemeanor on any subsequent offenses.]~~
- 14779 [~~(7) An individual who violates Subsection (5) is guilty of an offense under Section~~
- 14780 ~~76-10-104.]~~
- 14781 Section 272. Section **76-9-1108** is enacted to read:
- 14782 **76-9-1108 . Illegal presence of a minor inside a tobacco specialty business.**
- 14783 (1)(a) As used in this section, "self-service display" means the same as that term is
- 14784 defined in Section 76-9-1107.
- 14785 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 14786 (2) Except as provided in Subsection (4), an actor commits illegal presence of a minor
- 14787 inside a tobacco specialty business if the actor:
- 14788 (a) is under 21 years old; and
- 14789 (b) enters or is present inside a retail tobacco specialty business.
- 14790 (3) A violation of Subsection (2) is:
- 14791 (a) a class C misdemeanor on the first offense;
- 14792 (b) a class B misdemeanor on the second offense; or
- 14793 (c) a class A misdemeanor on the third or subsequent offense.
- 14794 (4) An actor under 21 years old may enter or be present inside a tobacco specialty business
- 14795 if the actor is:
- 14796 (a) accompanied by the actor's parent or legal guardian; or
- 14797 (b)(i) present at the retail tobacco specialty business solely for the purpose of
- 14798 providing a service to the tobacco retail specialty business, including making a
- 14799 delivery;
- 14800 (ii) monitored by the proprietor of the retail tobacco specialty business or an
- 14801 employee of the retail tobacco specialty business; and
- 14802 (iii) not permitted to make any purchase or conduct any commercial transaction other
- 14803 than the service described in Subsection (4)(b)(i).

14804 (5)(a) An individual's parent or legal guardian who accompanies an individual under
14805 Subsection (4)(a) inside a tobacco specialty business may not allow the individual to
14806 purchase a tobacco product, an electronic cigarette product, or a nicotine product.

14807 (b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

14808 Section 273. Section **76-9-1109**, which is renumbered from Section 76-10-105.3 is renumbered
14809 and amended to read:

14810 **[76-10-105.3]76-9-1109 . Illegal sale or gift of clove cigarette.**

14811 (1)(a) As used in this section, "clove cigarette" means a cigarette that contains more
14812 than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly
14813 known as clove.

14814 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14815 (2) ~~[It is unlawful for any person to knowingly sell, offer for sale, give or furnish any~~
14816 ~~clove cigarette in this state. For purposes of this section "clove cigarette" means any~~
14817 ~~cigarette which contains more than 10%, by weight, of raw eugenia caryophyllata or~~
14818 ~~caryophyllus, commonly known as clove. Any person who violates this section is guilty~~
14819 ~~of.] An actor commits illegal sale or gift of clove cigarette if the actor knowingly sells,~~
14820 offers for sale, gives, or furnishes a clove cigarette in this state.

14821 (3) A violation of Subsection (2) is a class B misdemeanor.

14822 Section 274. Section **76-9-1110**, which is renumbered from Section 76-10-107 is renumbered
14823 and amended to read:

14824 **[76-10-107]76-9-1110 . Abuse of psychotoxic chemical solvent.**

14825 (1)(a) As used in this section, "psychotoxic chemical solvent" includes any glue,
14826 cement, or other substance containing one or more of the following chemical
14827 compounds:

14828 (i) acetone and acetate;

14829 (ii) amyl nitrite or amyl nitrate or their isomers;

14830 (iii) benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers;

14831 (iv) ethyl alcohol, ethyl nitrite, or ethyl nitrate;

14832 (v) ethylene dichloride;

14833 (vi) isobutyl alcohol;

14834 (vii) methyl alcohol;

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- 14835 (viii) methyl ethyl ketone;
- 14836 (ix) n-propyl alcohol;
- 14837 (x) pentachlorophenol;
- 14838 (xi) petroleum ether;
- 14839 (xii) propyl nitrite or propyl nitrate or their isomers;
- 14840 (xiii) toluene;
- 14841 (xiv) xylene; or
- 14842 (xv) another chemical substance capable of causing a condition of intoxication,
- 14843 inebriation, excitement, stupefaction, or the dulling of the brain or nervous system
- 14844 as a result of the inhalation of the fumes or vapors of such chemical substance.
- 14845 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.
- 14846 (2) ~~[A person is guilty of]~~ Except as provided in Subsection (4), an actor commits abuse of
- 14847 psychotoxic chemical ~~[solvents if]~~ solvent if:
- 14848 (a) for the purpose of causing a condition of intoxication, inebriation, excitement,
- 14849 stupefaction, or the dulling of [his] the actor's brain or nervous system, [he] the actor
- 14850 intentionally:
- 14851 (i) smells or inhales the fumes of [any] a psychotoxic chemical solvent; or
- 14852 (ii) possesses, purchases, or attempts to possess or purchase [any] a psychotoxic
- 14853 chemical solvent; or
- 14854 (b) the [person] actor offers, sells, or provides a psychotoxic chemical solvent to another
- 14855 person, knowing that other person or a third party intends to possess or use that
- 14856 psychotoxic chemical solvent in violation of Subsection ~~[(1)(a).]~~ (2)(a).
- 14857 ~~[(2) This section does not apply to the prescribed use, distribution, or sale of those~~
- 14858 ~~substances for medical or dental purposes.]~~
- 14859 (3) ~~[Abuse of psychotoxic chemical solvents]~~ A violation of Subsection (2) is a class B
- 14860 misdemeanor.
- 14861 ~~[(4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or~~
- 14862 ~~other substance containing one or more of the following chemical compounds:~~
- 14863 ~~acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl~~
- 14864 ~~alcohol, butyl nitrite, butyl nitrate, or their isomers, ethyl alcohol, ethyl nitrite or~~
- 14865 ~~ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl~~

14866 ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl
14867 nitrate or their isomers, toluene or xylene, or other chemical substance capable of
14868 causing a condition of intoxication, inebriation, excitement, stupefaction, or the
14869 dulling of the brain or nervous system as a result of the inhalation of the fumes or
14870 vapors of such chemical substance.]

14871 (4) This section does not apply to:

14872 (a) the prescribed use, distribution, or sale of a psychotoxic chemical solvent for a
14873 medical or dental purpose; or

14874 (b) ~~[Nothing in this section shall be construed to include any]~~ a controlled substance
14875 regulated by the provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

14876 Section 275. Section **76-9-1111**, which is renumbered from Section 76-10-107.5 is renumbered
14877 and amended to read:

14878 ~~[76-10-107.5]~~ **76-9-1111 . Abuse of nitrous oxide.**

14879 (1)(a) As used in this section, "nitrous oxide" means:

14880 ~~[(a)]~~ (i) N2O, a colorless gas or liquid that is also referred to as dinitrogen monoxide,
14881 nitrogen oxide, or laughing gas; ~~[and]~~ or

14882 ~~[(b)]~~ (ii) any substance containing nitrous oxide.

14883 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14884 (2) ~~[A person is guilty of]~~ Except as provided in Subsection (4), an actor commits abuse of
14885 nitrous oxide [who] if the actor:

14886 (a) possesses nitrous oxide with the intent to breathe, inhale, or ingest ~~[it]~~ the nitrous
14887 oxide for the purpose of:

14888 (i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or
14889 dulling of the senses; or

14890 (ii) in any manner changing, distorting, or disturbing the audio, visual, or mental
14891 processes;

14892 (b) knowingly ~~[and]~~ or intentionally is under the influence of nitrous oxide; or

14893 (c) offers, sells, or provides nitrous oxide to another person, knowing that other person
14894 or a third party intends to possess or use the nitrous oxide in violation of Subsection
14895 (2)(a) or (b).

14896 (3) A violation of Subsection (2) is a class A misdemeanor.

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14897 ~~[(3)]~~ (4)(a) Subsection (2)(b) does not apply to any person who is under the influence of
14898 nitrous oxide pursuant to an administration for the purpose of medical, surgical, or
14899 dental care by a person holding a license under state law that authorizes the
14900 administration of nitrous oxide.

14901 ~~[(4)]~~ (b) Subsection (2)(c) does not apply to any person who:
14902 (i) administers nitrous oxide for the purpose of medical, surgical, or dental care; and
14903 (ii) ~~[who]~~ holds a license under state law that authorizes the administration of nitrous
14904 oxide.

14905 ~~[(5) A violation of this section is a class A misdemeanor.]~~

14906 Section 276. Section **76-9-1112**, which is renumbered from Section 76-10-111 is renumbered
14907 and amended to read:

14908 ~~[76-10-111]~~ **76-9-1112 . Illegal provision of smokeless tobacco or electronic cigarette product**

14909 **-- Exceptions.**

14910 ~~[(1) The Legislature finds that:]~~

14911 ~~[(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
14912 use those products because research indicates that they may cause mouth or oral cancers;]~~

14913 ~~[(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;]~~

14914 ~~[(c) the use of electronic cigarette products may lead to unhealthy behavior such as the use
14915 of tobacco products; and]~~

14916 ~~[(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the
14917 interest of the health of the citizens of this state.]~~

14918 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14919 (2)~~[(a) Except as provided in Subsection [(3), it is unlawful for-] (4), an actor commits
14920 illegal provision of smokeless tobacco or electronic cigarette product if the actor:~~

14921 ~~(a) is a manufacturer, wholesaler, and retailer [to:]; and~~

14922 ~~(b)(i) [give or distribute-] gives or distributes without charge [any-] smokeless
14923 tobacco, chewing tobacco, or an electronic cigarette product in this state;~~

14924 ~~(ii) [sell, offer for sale, or furnish any] sells, offers for sale, or furnishes an electronic
14925 cigarette product at less than the cost, including the amount of any applicable tax,
14926 of the product to the manufacturer, wholesaler, or retailer; or~~

14927 ~~(iii) [give, distribute, sell, offer for sale, or furnish any] gives, distributes, sells, offers~~

14928 for sale, or furnishes an electronic cigarette product for free or at a lower price
14929 because the recipient of the electronic cigarette product makes another purchase.

14930 (3) A violation of Subsection (2) is:

14931 (a) a class C misdemeanor on the first offense; or

14932 (b) a class B misdemeanor on a subsequent offense.

14933 [(b)] (4)(a) The price that a manufacturer, wholesaler, or retailer may charge under
14934 Subsection [(2)(a)(ii)] (2)(b)(ii) does not include a discount for:

14935 (i) a physical manufacturer coupon:

14936 (A) that is surrendered to the wholesaler or retailer at the time of sale; and

14937 (B) for which the manufacturer will reimburse the wholesaler or the retailer for
14938 the full amount of the discount described in the manufacturer coupon and
14939 provided to the purchaser;

14940 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for
14941 the full amount of the rebate provided to the purchaser; or

14942 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the
14943 retailer for the full amount of the promotional fund provided to the purchaser.

14944 [(e) Any individual who violates this section is guilty of:]

14945 [(i) a class C misdemeanor for the first offense; and]

14946 [(ii) a class B misdemeanor for any subsequent offense.]

14947 [(3)] (b) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be
14948 distributed to adults without charge at professional conventions where the general
14949 public is excluded.

14950 (5) The Legislature finds that:

14951 (a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who
14952 use those products because research indicates that they may cause mouth or oral
14953 cancers;

14954 (b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

14955 (c) the use of electronic cigarette products may lead to unhealthy behavior such as the
14956 use of tobacco products; and

14957 (d) it is necessary to restrict the gift of the products described in this section in the
14958 interest of the health of the citizens of this state.

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14959 Section 277. Section **76-9-1113**, which is renumbered from Section 76-10-112 is renumbered
14960 and amended to read:

14961 ~~[76-10-112]~~ **76-9-1113 . Illegal distribution of a tobacco product -- Exceptions.**

14962 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14963 (2) Except as provided in Subsection [(3), it is unlawful for-] (4), an actor commits illegal
14964 distribution of a tobacco product if the actor:

14965 (a) is a manufacturer, wholesaler, or retailer; and

14966 (b) [to give or distribute] gives or distributes a tobacco product in this state without
14967 charge.

14968 ~~[(2)] (3) [An individual who violates this subsection is guilty of]~~ A violation of Subsection
14969 (2) is:

14970 (a) a class C misdemeanor ~~[for]~~ on the first offense; ~~[and]~~ or

14971 (b) a class B misdemeanor ~~[for any]~~ on a subsequent offense.

14972 ~~[(3)] (4)(a)~~ A tobacco product may be distributed to an adult without charge at a
14973 professional convention where the general public is excluded.

14974 ~~[(4)] (b)~~ The prohibition described in Subsection ~~[(1)-]~~ (2) does not apply to a tobacco
14975 retailer, a manufacturer, or a distributor that gives a tobacco product to an individual
14976 who is 21 years old or older upon the individual's purchase of a tobacco product.

14977 Section 278. Section **76-9-1114**, which is renumbered from Section 76-10-113 is renumbered
14978 and amended to read:

14979 ~~[76-10-113]~~ **76-9-1114 . Illegal distribution of a flavored electronic cigarette product.**

14980 (1) ~~[Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a retail tobacco~~
14981 ~~specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic~~
14982 ~~cigarette product to any person.]~~ Terms defined in Sections 76-1-101.5 and 76-9-1101
14983 apply to this section.

14984 (2) ~~[Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a~~
14985 ~~person to give, distribute, sell, offer for sale, or furnish-]~~ An actor commits illegal
14986 distribution of a flavored electronic cigarette product if the actor gives, distributes, sells,
14987 offers for sale, or furnishes to any person a flavored electronic cigarette product.

14988 ~~[(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer~~
14989 ~~for sale, or furnish to any person an electronic cigarette product that is not a premarket~~

14990 authorized or pending electronic cigarette product.]
14991 [(4)] (3) [An individual who violates this section is guilty of] A violation of Subsection (2) is:
14992 (a) a class C misdemeanor [for] on the first offense; [and] or
14993 (b) a class B misdemeanor [for any] on a subsequent offense.

14994 Section 279. Section **76-9-1115** is enacted to read:

14995 **76-9-1115 . Illegal distribution of an electronic cigarette product without federal**
14996 **authorization.**

14997 (1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

14998 (2) An actor commits illegal distribution of an electronic cigarette product without federal
14999 authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any
15000 person an electronic cigarette product that is not a premarket authorized or pending
15001 electronic cigarette product.

15002 (3) A violation of Subsection (2) is:

15003 (a) a class C misdemeanor on the first offense; or

15004 (b) a class B misdemeanor on a subsequent offense.

15005 Section 280. Section **76-9-1116**, which is renumbered from Section 76-10-114 is renumbered
15006 and amended to read:

15007 **[76-10-114]76-9-1116 . Unlawful sale of a tobacco product, electronic cigarette product, or**
15008 **nicotine product.**

15009 (1)(a) As used in this section:

15010 [(a)] (i) "Compensatory service" means service or unpaid work performed by an
15011 employee, in lieu of the payment of a fine or imprisonment.

15012 [(b)] (ii) "Employee" means an employee or an owner of a tobacco retailer.

15013 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

15014 (2) [It is unlawful for an employee to knowingly or intentionally sell or give.] An actor
15015 commits unlawful sale of a tobacco product, electronic cigarette product, or nicotine
15016 product if the actor:

15017 (a) is an employee; and

15018 (b) intentionally or knowingly sells or gives a tobacco product, an electronic cigarette
15019 product, or a nicotine product in the course of business to an individual [who is under]
15020 younger than 21 years old.

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15021 (3) ~~[An employee who violates this section]~~ A violation of Subsection (2) is:

15022 (a) on a first violation:

15023 (i) ~~[guilty of]~~an infraction; and

15024 (ii) subject to:

15025 (A) a fine not exceeding \$1,000; or

15026 (B) compensatory service; or

15027 (b) on ~~[any]~~ a subsequent violation:

15028 (i) ~~[guilty of]~~a class C misdemeanor; and

15029 (ii) subject to:

15030 (A) a fine not exceeding \$2,000; or

15031 (B) compensatory service.

15032 Section 281. Section ~~76-9-1117~~, which is renumbered from Section 76-10-115 is renumbered
15033 and amended to read:

15034 ~~[76-10-115]~~**76-9-1117 . Unlawful transfer of proof of age.**

15035 (1)(a) As used in this section:

15036 ~~[(a)]~~ (i) "Proof of age" means:

15037 ~~[(i)]~~ (A) a valid identification card issued under Title 53, Chapter 3, Part 8,
15038 Identification Card Act;

15039 ~~[(ii)]~~ (B) a valid identification that:

15040 ~~[(A)]~~ (I) is substantially similar to an identification card issued under Title 53,
15041 Chapter 3, Part 8, Identification Card Act;

15042 ~~[(B)]~~ (II) is issued in accordance with the laws of a state other than Utah in
15043 which the identification is issued;

15044 ~~[(C)]~~ (III) includes date of birth; and

15045 ~~[(D)]~~ (IV) has a picture affixed;

15046 ~~[(iii)]~~ (C) a valid driver license certificate that is issued under Title 53, Chapter 3,
15047 Uniform Driver License Act, or in accordance with the laws of the state in
15048 which the valid driver license is issued;

15049 ~~[(iv)]~~ (D) a valid United States military identification card that:

15050 ~~[(A)]~~ (I) includes date of birth; and

15051 ~~[(B)]~~ (II) has a picture affixed; or

15052 [(v)] (E) a valid passport.
15053 [(b)] (ii) "Proof of age" does not include a driving privilege card issued in accordance
15054 with Section 53-3-207.

15055 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

15056 (2) ~~[An individual is guilty of a class B misdemeanor if the individual knowingly and~~
15057 ~~intentionally transfers that individual's]~~ Except as provided in Subsection (4), an actor
15058 commits unlawful transfer of proof of age if the actor intentionally or knowingly
15059 transfers the actor's proof of age to another individual to aid that individual in:

15060 (a) purchasing a tobacco product, an electronic cigarette product, or a nicotine product;
15061 or

15062 (b) gaining admittance to any part of the premises of a retail tobacco specialty business.

15063 (3) A violation of Subsection (2) is a class B misdemeanor.

15064 ~~[(3) An individual is guilty of a class A misdemeanor if the individual knowingly and~~
15065 ~~intentionally uses proof of age containing false information with the intent to:]~~

15066 ~~[(a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or]~~

15067 ~~[(b) gain admittance to any part of the premises of a retail tobacco specialty business.]~~

15068 (4) ~~[Subsections (2) and (3) do]~~ Subsection (2) does not apply to an individual who uses a
15069 false identification in accordance with Subsection 77-39-101(4) at the request of a peace
15070 officer.

15071 Section 282. Section **76-9-1118** is enacted to read:

15072 **76-9-1118 . Unlawful use of proof of age containing false information.**

15073 (1)(a) As used in this section, "proof of age" means the same as that term is defined in
15074 Section 76-9-1117.

15075 (b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

15076 (2) An actor commits unlawful use of proof of age containing false information if the actor
15077 intentionally or knowingly uses proof of age containing false information with the intent
15078 to:

15079 (a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or

15080 (b) gain admittance to any part of the premises of a retail tobacco specialty business.

15081 (3) A violation of Subsection (2) is a class A misdemeanor.

15082 (4) Subsection (2) does not apply to an individual who uses a false identification in

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15083 accordance with Subsection 77-39-101(4) at the request of a peace officer.

15084 Section 283. Section **76-9-1119**, which is renumbered from Section 76-10-116 is renumbered
15085 and amended to read:

15086 **[76-10-116]76-9-1119 . Ordinances, rules, and regulations.**

15087 (1) Except as provided in Subsection (2) or (3), an ordinance, rule, or regulation adopted by
15088 a governing body of a political subdivision of the state or a state agency is superseded if:

15089 (a) the ordinance, rule, or regulation affects:

15090 (i) the minimum age of sale for a tobacco product, an electronic cigarette product, or
15091 tobacco paraphernalia;

15092 (ii) the provision or sale of a tobacco product, an electronic cigarette product, or
15093 tobacco paraphernalia;

15094 (iii) the flavoring of a tobacco product or an electronic cigarette product;

15095 (iv) the purchase or possession of a tobacco product, an electronic cigarette product,
15096 or tobacco paraphernalia; or

15097 (v) the placement or display of a tobacco product or an electronic cigarette product;
15098 and

15099 (b) the ordinance, rule, or regulation is not essentially identical to [any] a state statute
15100 relating to the applicable subject described in Subsection (1)(a).

15101 (2) A governing body of a political subdivision of the state or a state agency may adopt an
15102 ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v)
15103 if the governing body of a political subdivision of the state or a state agency is
15104 authorized by statute to adopt the ordinance, rule, or regulation.

15105 (3) Subsection (1) does not apply to the adoption or enforcement of a land use ordinance by
15106 a municipal or county government.

15107 Section 284. Section **76-9-1201** is enacted to read:

15108 **Part 12. Offenses Concerning Water, Shafts, and Wells**

15109 **76-9-1201 . Definitions.**

15110 Reserved.

15111 Section 285. Section **76-9-1202**, which is renumbered from Section 76-10-201 is renumbered
15112 and amended to read:

15113 **[76-10-201]76-9-1202 . Unlawful interference with water flow.**

- 15114
- 15115 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.
- 15116 (2) ~~[Every person who knowingly or]~~ An actor commits unlawful interference with water
- 15117 flow if the actor intentionally or knowingly interferes with or alters the flow of water in
- 15118 any stream, ditch, or lateral while under the control or management of any water
- 15119 commissioner~~[is guilty of a crime punishable under Section 73-2-27].~~
- 15120 (3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.
- 15121 Section 286. Section **76-9-1203**, which is renumbered from Section 76-10-202 is renumbered
- 15122 and amended to read:
- 15123 ~~[76-10-202]~~ **76-9-1203 . Unlawful taking of water or damaging a water facility.**
- 15124 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.
- 15125 (2) ~~[No person may, in-]~~ An actor commits unlawful taking of water or damaging a water
- 15126 facility if the actor, in violation of [any] a right of [any other] another person, [knowingly
- 15127 ~~or]~~ intentionally or knowingly:
- 15128 (a) ~~[turn or use-]~~ turns on or uses the water, or [any] a part thereof, of [any] a canal, ditch,
- 15129 pipeline, or reservoir, except at a time when the use of the water has been duly
- 15130 distributed to the [person] actor;
- 15131 (b) ~~[use any-]~~ uses a greater quantity of the water than has been duly distributed to [him]
- 15132 the actor;
- 15133 (c) in any way ~~[change]~~ changes the flow of water when lawfully distributed for
- 15134 irrigation or other useful purposes, except when duly authorized to make the change;
- 15135 or
- 15136 (d) ~~[break or injure any-]~~ breaks or injures a dam, canal, pipeline, watergate, ditch, or
- 15137 other means of diverting or conveying water for irrigation or other useful purposes.
- 15138 (3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.
- 15139 ~~[(2)]~~ (4) Subsection [(1)-] (2) applies to violations of [any] a right to the use of water,
- 15140 including:
- 15141 (a) a water right; or
- 15142 (b) authorization of a person's use of water by:
- 15143 (i) a water company, as defined in Subsection 73-3-3.5(1)(b); or
- 15144 (ii) an entity having a valid water right under Utah law.

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15145 ~~[(3) Any person who violates this section is guilty of a crime punishable under Section~~
15146 ~~73-2-27.]~~

15147 Section 287. Section **76-9-1204**, which is renumbered from Section 76-10-203 is renumbered
15148 and amended to read:

15149 **[76-10-203]76-9-1204 . Unlawful obstruction of watergates.**

15150 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

15151 (2) ~~[Every person who-]~~ An actor commits unlawful obstruction of watergates if the
15152 actor:

15153 (a) rafts or floats logs, timber, or wood down any river or stream; and

15154 (b) allows the logs, timber, or wood described in Subsection (2)(a) to accumulate at or
15155 obstruct the watergates owned by [any] a person or irrigation company taking or
15156 diverting the water of the river or stream for irrigation or manufacturing purposes[is
15157 guilty of a crime punishable under Section 73-2-27].

15158 (3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

15159 Section 288. Section **76-9-1205**, which is renumbered from Section 76-10-204 is renumbered
15160 and amended to read:

15161 **[76-10-204]76-9-1205 . Unlawful damage to a bridge, dam, canal, or other water-related**
15162 **structure.**

15163 ~~[(1) A person is guilty of a third-degree felony who intentionally, knowingly, or recklessly~~
15164 ~~commits an offense under Subsection (2) that does not amount to a violation of~~
15165 ~~Subsection 76-6-106(2)(a)(ii) or Section 76-6-106.3.]~~

15166 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

15167 (2) Except as provided in Subsection (4), an actor commits unlawful damage to a bridge,
15168 dam, canal, or other water-related structure if the actor intentionally, knowingly, or
15169 recklessly:

15170 ~~[(2) Offenses referred to in Subsection (1) are when a person:]~~

15171 (a) cuts, breaks, damages, or destroys [any] a bridge, dam, canal, flume, aqueduct, levee,
15172 embankment, reservoir, or other structure erected:

15173 (i) []to create hydraulic power[] ;

15174 (ii) to drain or reclaim [any swamp and overflowed] a swamp, overflowed land, or
15175 marsh land[] ; or

- 15176 (iii) to conduct water for mining, manufacturing, reclamation, or agricultural
15177 purposes, or for the supply of the inhabitants of any city or town;
- 15178 (b) makes or causes to be made ~~[any]~~ an aperture in ~~[any]~~ a dam, canal, flume, aqueduct,
15179 reservoir, embankment, levee, or similar structure with intent to injure or destroy ~~[it]~~
15180 the dam, canal, flume, aqueduct, reservoir, embankment, levee, or similar structure; or
- 15181 (c) draws up, cuts, or injures ~~[any piles]~~ a pile fixed in the ground and used for securing [
15182 any] a lake or river bank or ~~[walls]~~ wall or ~~[any]~~ a dock, quay, jetty, or lock.
- 15183 (3) A violation of Subsection (2) is a third degree felony.
- 15184 (4) Subsection (2) applies to conduct that does not amount to a violation of Subsection
15185 76-6-106(2)(a)(ii) or Section 76-6-106.3.
- 15186 Section 289. Section **76-9-1206**, which is renumbered from Section 76-10-2601 is renumbered
15187 and amended to read:
- 15188 **[76-10-2601]76-9-1206 . Unlawful failure to fence a shaft or well.**
- 15189 (1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.
- 15190 (2) [Any person who] An actor commits unlawful failure to fence a shaft or well if the actor:
- 15191 (a) has sunk or sinks a shaft or well on the public domain for any purpose[shall enclose
15192 it with a substantial curb or fence, which shall be at least 4-1/2 feet high.] ; and
- 15193 (b) fails to enclose the shaft or well with a substantial curb or fence that is at least 4.5
15194 feet high.
- 15195 ~~[(2)]~~ (3) [Any person violating this section is guilty of] A violation of Subsection (2) is a
15196 class B misdemeanor.
- 15197 Section 290. Section **76-9-1301**, which is renumbered from Section 76-10-801 is renumbered
15198 and amended to read:

Part 13. Criminal Nuisance

- 15200 **[76-10-801]76-9-1301 . Definitions.**
- 15201 ~~[(1)]~~ (1) A nuisance is any] As used in this part:
- 15202 (1) "Nuisance" means an item, thing, manner, or condition [whatsoever] that:
- 15203 (a) [-]is dangerous to human life or health; or
- 15204 (b) renders soil, air, water, or food impure or unwholesome.
- 15205 (2)(a) "Public nuisance" means unlawfully committing an act or omitting to perform a
15206 duty, which act or duty:

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- 15207 (i) annoys, injures, or endangers the comfort, repose, health, or safety of three or
15208 more persons, regardless of the extent to which the annoyance, injury, or
15209 endangerment inflicted on the persons is unequal;
- 15210 (ii) offends public decency;
- 15211 (iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous
15212 for passage, a lake, stream, canal, or basin, or a public park, square, street, or
15213 highway;
- 15214 (iv) is a nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and
15215 drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution
15216 -- Weapons -- Abatement by eviction; or
- 15217 (v) renders three or more persons insecure in life or the use of property, regardless of
15218 the extent to which the effect inflicted on the persons is unequal.
- 15219 (b) "Public nuisance" is presumed to not include:
- 15220 (i) activities conducted in the normal and ordinary course of agricultural operations,
15221 as defined in Section 4-44-102, and conducted in accordance with sound
15222 agricultural practices, with the presumption that agricultural operations
15223 undertaken in conformity with federal, state, and local laws and regulations,
15224 including zoning ordinances, are operating within sound agricultural practices; or
- 15225 (ii) activities conducted in the normal and ordinary course of critical infrastructure
15226 materials operations, as defined in Section 78B-6-1101, and conducted in
15227 accordance with sound critical infrastructure materials practices, with the
15228 presumption that critical infrastructure materials operations undertaken in
15229 conformity with federal, state, and local laws and regulations, including zoning
15230 ordinances, are operating within sound critical infrastructure materials operations.
- 15231 [~~(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or~~
15232 ~~contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a~~
15233 ~~class B misdemeanor.]~~
- 15234 Section 291. Section **76-9-1302** is enacted to read:
- 15235 **76-9-1302 . Creating, supporting, or retaining a nuisance.**
- 15236 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.
- 15237 (2) An actor commits creating, supporting, or retaining a nuisance if the actor:

- 15238 (a) is an owner, agent, or occupant; and
15239 (b)(i) creates, aids in creating, or contributes to a nuisance; or
15240 (ii) supports, continues, or retains a nuisance.

15241 (3) A violation of Subsection (2) is a class B misdemeanor.

15242 Section 292. Section **76-9-1303**, which is renumbered from Section 76-10-802 is renumbered
15243 and amended to read:

15244 **[76-10-802]76-9-1303 . Befouling waters.**

15245 [A person is guilty of a class B misdemeanor if he:]

15246 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

15247 (2) An actor commits the offense of befouling waters if the actor:

15248 (a) [Constructs-] constructs or maintains a corral, sheep pen, goat pen, stable, pigpen,
15249 chicken coop, or other offensive yard or outhouse [where] from which the waste or
15250 drainage [therefrom shall flow] will flow directly into the waters of any stream, well,
15251 or spring of water used for domestic purposes; [or]

15252 [(2)] (b) [Deposits] deposits, piles, unloads, or leaves [any] a manure heap, offensive
15253 rubbish, or the carcass of [any] a dead animal [where] from which the waste or
15254 drainage [therefrom] will flow directly into the waters of any stream, well, or spring
15255 of water used for domestic purposes; [or]

15256 [(3)] (c) [Dips-] dips or washes sheep in [any] a stream, or constructs, maintains, or uses [
15257 any] a pool or dipping vat for dipping or washing sheep in such close proximity to [
15258 any] a stream used for domestic purposes by the inhabitants of any city or town [for
15259 domestic purposes] so as to make the waters [thereof] of the stream impure or
15260 unwholesome; [or]

15261 [(4)] (d) [Constructs-] constructs or maintains [any] a corral, yard, or vat to be used for the
15262 purpose of shearing or dipping sheep within 12 miles of any city or town, [where]
15263 from which the refuse or filth from the corral or yard would naturally find its way
15264 into any stream of water used for domestic purposes by the inhabitants of any city or
15265 town[for domestic purposes]; or

15266 [(5)] (e) [Establishes-] establishes and maintains [any] a corral, camp, or bedding place for
15267 the purpose of herding, holding, or keeping [any] cattle, horses, sheep, goats, or hogs
15268 within seven miles of any city or town, [where] from which the refuse or filth from

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15269 the corral, camp, or bedding place will naturally find its way into any stream of water
15270 used for domestic purposes by the inhabitants of any city or town[~~for domestic~~
15271 ~~purposes~~].

15272 (3) A violation of Subsection (2) is a class B misdemeanor.

15273 Section 293. Section **76-9-1304**, which is renumbered from Section 76-10-805 is renumbered
15274 and amended to read:

15275 **[76-10-805]76-9-1304 . Unlawful disposal of carcass or offal.**

15276 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.[Every
15277 ~~person who~~]

15278 (2) An actor commits unlawful disposal of carcass or offal if the actor:

15279 (a) puts the carcass of [~~any~~] a dead animal, or the offal from [~~any~~] a slaughter pen, corral,
15280 or butcher shop, into [~~any~~] a river, creek, pond, street, alley, or public highway, or
15281 road in common use[~~, or who attempts to destroy it by fire, within one-fourth of a~~
15282 ~~mile of any city or town is guilty of a class B misdemeanor.~~] ; or

15283 (b) attempts to destroy by fire the carcass of a dead animal, or the offal from a slaughter
15284 pen, corral, or butcher shop, within one-fourth of a mile of a city or town.

15285 (3) A violation of Subsection (2) is a class B misdemeanor.

15286 Section 294. Section **76-9-1305**, which is renumbered from Section 76-10-804 is renumbered
15287 and amended to read:

15288 **[76-10-804]76-9-1305 . Maintaining, committing, or failing to remove a public nuisance.**

15289 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

15290 (2) [~~Every person who~~] An actor commits maintaining, committing, or failing to
15291 remove a public nuisance if the actor:

15292 (a) maintains or commits [~~any~~] a public nuisance, the punishment for which is not
15293 otherwise prescribed[~~, or who~~] ; or

15294 (b) [~~-~~]willfully omits to perform [~~any~~] a legal duty relating to the removal of a public
15295 nuisance[~~, is guilty of~~] .

15296 (3) A violation of Subsection (2) is a class B misdemeanor.

15297 Section 295. Section **76-9-1306**, which is renumbered from Section 76-10-806 is renumbered
15298 and amended to read:

15299 **[76-10-806]76-9-1306 . Action for abatement of public nuisance.**

15300 (1)(a) As used in this section:

15301 (i) "Distribute" means the same as that term is defined in Section 76-5c-101.

15302 (ii) "Exhibit" means the same as that term is defined in Section 76-5c-101.

15303 (iii) "Material" means the same as that term is defined in Section 76-5c-101.

15304 (b) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

15305 (2) The county attorney of the county [~~where~~] in which the public nuisance exists, upon
15306 direction of the county [-]executive, or city attorney of the city [~~where~~] in which the
15307 public nuisance exists, upon direction of the board of city commissioners, or attorney
15308 general, upon direction of the governor, or any of the above attorneys without the
15309 necessity of direction, is empowered to institute an action in the name of the county,
15310 city, or state, as the case may be, to abate a public nuisance.

15311 (3) The action shall be brought in the [~~district~~] court of the district [~~where~~] in which the
15312 public nuisance exists and shall be in the form prescribed by the Rules of Civil
15313 Procedure of the State of Utah for injunctions, but none of the above attorneys shall be
15314 required to execute a bond with respect to the action.

15315 (4) If the action is instituted, however, to abate the distribution or exhibition of material
15316 alleged to offend public decency, the action shall be in the form prescribed by the Rules
15317 of Civil Procedure of Utah for injunctions, but no restraining order or injunction shall
15318 issue except upon notice to the person sought to be enjoined; and that person shall be
15319 entitled to a trial of the issues commencing within three days after filing of an answer to
15320 the complaint and a decision shall be rendered by the court within two days after the
15321 conclusion of the trial.~~[As used in this part, "distribute," "exhibit," and "material" mean~~
15322 ~~the same as provided in Section 76-10-1201.]~~

15323 Section 296. Section **76-9-1307**, which is renumbered from Section 76-10-808 is renumbered
15324 and amended to read:

15325 ~~[76-10-808]~~**76-9-1307 . Relief granted for a public nuisance that offends public decency.**

15326 If the existence of a public nuisance [~~as defined by Subsection 76-10-803(1)(b)]~~
15327 that offends public decency is admitted or established, either in a civil or criminal
15328 proceeding, a judgment shall be entered [~~which~~] that shall:

15329 (1) permanently enjoin each defendant and any other person from further maintaining the
15330 public nuisance at the place complained of and each defendant from maintaining such

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- 15331 public nuisance elsewhere;
- 15332 (2) direct the person enjoined to surrender to the sheriff of the county in which the action
- 15333 was brought any material in ~~[his]~~ the defendant's possession ~~[which]~~ that is subject to the
- 15334 injunction, and the sheriff shall seize and destroy this material; and
- 15335 (3) without proof of special injury, direct that an accounting be had and all money and other
- 15336 consideration paid as admission to view any motion picture film determined to constitute
- 15337 a public nuisance, or paid for any publication determined to constitute a public nuisance,
- 15338 in either case without deduction for expenses, be forfeited and paid into the general fund
- 15339 of the county ~~[where the]~~ in which the public nuisance was maintained.

15340 Section 297. Section **76-9-1308**, which is renumbered from Section 76-10-807 is renumbered

15341 and amended to read:

15342 ~~[76-10-807]~~**76-9-1308 . Criminal violation of an order enjoining a public nuisance.**

- 15344 (1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.
- 15345 (2) ~~[A person who]~~ An actor commits criminal violation of an order enjoining a public
- 15346 nuisance if the actor knowingly violates [any] a judgment or order abating or otherwise
- 15347 enjoining a public nuisance~~[as defined under Section 76-10-803 is guilty of a class B~~
- 15348 misdemeanor].
- 15349 (3) A violation of Subsection (2) is a class B misdemeanor.

15350 Section 298. Section **76-9-1401**, which is renumbered from Section 76-10-1101 is renumbered

15351 and amended to read:

15352 **Part 14. Gambling**

15353 ~~[76-10-1101]~~**76-9-1401 . Definitions.**

15354 As used in this part:

- 15355 (1)(a) "Amusement device" means a game that:
- 15356 (i) is activated by a coin, token, or other object of consideration or value; and
- 15357 (ii) does not provide the opportunity to:
- 15358 (A) enter into a sweepstakes, lottery, or other gambling event; or
- 15359 (B) receive any form of consideration or value, except an appropriate reward.
- 15360 (b) "Amusement device" includes:
- 15361 (i) a video game;
- 15362 (ii) a driving simulator;

- 15363 (iii) an electronic game;
- 15364 (iv) a claw machine;
- 15365 (v) a bowling game;
- 15366 (vi) a shuffleboard game;
- 15367 (vii) a skee-ball game;
- 15368 (viii) a pool table;
- 15369 (ix) a pinball machine;
- 15370 (x) a target machine; and
- 15371 (xi) a baseball machine.

15372 (2) "Amusement facility" means a facility that:

- 15373 (a) is operated primarily for the purpose of providing amusement or entertainment to
- 15374 customers;
- 15375 (b) is located on property that is open to customers for the purpose of providing
- 15376 customers with an opportunity to use an amusement device;
- 15377 (c) receives a substantial amount of the facility's revenue from the operation of
- 15378 amusement devices; and
- 15379 (d) does not provide an opportunity for, or a machine or device that enables, gambling or
- 15380 fringe gambling.

15381 (3)(a) "Appropriate reward" means a reward that:

- 15382 (i) an individual receives as a result of the individual's participation in or use of an
- 15383 amusement device; and
- 15384 (ii) provides:
 - 15385 (A) full and adequate return for money, a token, or other consideration or value
 - 15386 invested into the amusement device;
 - 15387 (B) an immediate and unrecorded ability to replay a game featured on an
 - 15388 amusement device that is not exchangeable for value;
 - 15389 (C) a toy, novelty, or other non-monetary prize with a value of less than \$100 as a
 - 15390 reward for playing; or
 - 15391 (D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize
 - 15392 at an amusement facility, or at any franchise or chain of the amusement
 - 15393 facility, where the amusement device is located.

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- 15394 (b) "Appropriate reward" does not include money, a gift certificate, a gift card, credit to
15395 be used in a retail store, or other form of monetary compensation or reward.
- 15396 (4) "Consumer" means the same as that term is defined in Section ~~[76-10-1230]~~ 76-5c-401.
- 15397 (5) "Enter or entry" means an act or process by which an individual becomes eligible to
15398 receive a prize offered for participation in any form of sweepstakes, game, or contest.
- 15399 (6)(a) "Fringe gambling" means any de facto form of gambling, lottery, fringe gaming
15400 device, or video gaming device that is given, conducted, or offered for use or sale by
15401 a business in exchange for anything of value or incident to the purchase of another
15402 good or service.
- 15403 (b) "Fringe gambling" does not include:
- 15404 (i) a promotional activity that is clearly ancillary to the primary activity of a business;
15405 or
- 15406 (ii) use of an amusement device or vending machine.
- 15407 (7)(a) "Fringe gaming device" means a mechanically, electrically, or electronically
15408 operated machine or device that:
- 15409 (i) is not an amusement device or a vending machine;
15410 (ii) is capable of displaying or otherwise presenting information on a screen or
15411 through any other mechanism; and
- 15412 (iii) provides the user with a card, token, credit, gift certificate, product, or
15413 opportunity to participate in a contest, game, gaming scheme, or sweepstakes with
15414 a potential return of money or other prize.
- 15415 (b) "Fringe gaming device" includes a machine or device similar to a machine or device
15416 described in Subsection (7)(a) that seeks to avoid application or circumvent this part
15417 or Utah Constitution, Article VI, Section 27~~[, of the Utah Constitution]~~.
- 15418 (8)(a) "Gambling" means risking anything of value for a return or risking anything of
15419 value upon the outcome of a contest, game, gaming scheme, or gaming device when
15420 the return or outcome:
- 15421 (i) is based on an element of chance, regardless of:
- 15422 (A) the existence of a preview or pre-reveal feature in the device, contest, or
15423 game; or
- 15424 (B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A)

- 15425 allows users to see individual or successive outcomes; and
- 15426 (ii) is in accord with an agreement or understanding that someone will receive
- 15427 anything of value in the event of a certain outcome.
- 15428 (b) "Gambling" includes a lottery.
- 15429 (c) "Gambling" does not include:
- 15430 (i) a lawful business transaction; or
- 15431 (ii) use of an amusement device.
- 15432 (9) "Gambling bet" means money, checks, credit, or any other representation of value.
- 15433 (10) "Gambling device or record" means anything specifically designed for use in gambling
- 15434 or fringe gambling or used primarily for gambling or fringe gambling.
- 15435 (11) "Gambling proceeds" means anything of value used in gambling or fringe gambling.
- 15436 [~~(12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or~~
- 15437 ~~gaming by use of:~~
- 15438 ~~(a) the Internet; or]~~
- 15439 ~~(b) any mobile electronic device that allows access to data and information.]~~
- 15440 [~~(13)~~ (12) "Internet service provider" means a person engaged in the business of providing
- 15441 Internet access service, with the intent of making a profit, to consumers in Utah.
- 15442 [~~(14)~~ (13) "Lottery" means any scheme for the disposal or distribution of property by
- 15443 chance among persons who have paid or promised to pay any valuable consideration for
- 15444 the chance of obtaining property, or portion of it, or for any share or any interest in
- 15445 property, upon any agreement, understanding, or expectation that it is to be distributed
- 15446 or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by
- 15447 whatever name it is known.
- 15448 (14) "Online gambling" means gambling, fringe gambling, or gaming by use of:
- 15449 (a) the Internet; or
- 15450 (b) any mobile electronic device that allows access to data and information.
- 15451 (15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of value
- 15452 that may be or is transferred to an individual or placed on an account or other record
- 15453 with the intent to be transferred to an individual.
- 15454 (16) "Promotional activity that is clearly ancillary to the primary activity of a business"
- 15455 means a promotional activity that:

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- 15456 (a) continues for a limited period of time;
- 15457 (b) is related to a good or service ordinarily provided by a business or the marketing or
15458 advertisement of a good or service ordinarily provided by the business;
- 15459 (c) does not require [~~a person~~] an individual to purchase a good or service from the
15460 business in consideration for participation or an advantage in the promotional activity
15461 or any other contest, game, gaming scheme, sweepstakes, or promotional activity;
- 15462 (d) promotes a good or service described in Subsection (16)(b) on terms that are
15463 commercially reasonable; and
- 15464 (e) does not, through use of a machine or device:
 - 15465 (i) simulate a gambling environment;
 - 15466 (ii) require the purchase of something of value to participate in the promotional
15467 activity that is not regularly used, purchased, or redeemed by users of the machine
15468 or device;
 - 15469 (iii) provide a good or service described in Subsection (16)(b):
 - 15470 (A) in a manner in which the person acquiring the good or service is unable to
15471 immediately acquire, redeem, or otherwise use the good or service after the
15472 time of purchase; or
 - 15473 (B) at a value less than the full value of the good or service;
 - 15474 (iv) appear or operate in a manner similar to a machine or device that is normally
15475 found in a casino for the purpose of gambling;
 - 15476 (v) provide an entertaining display, designed to appeal to an individual's senses, that
15477 promotes actual or simulated game play that is similar in appearance or function
15478 to gambling, including:
 - 15479 (A) a video playing card game, including a video poker game;
 - 15480 (B) a video bingo game;
 - 15481 (C) a video craps game;
 - 15482 (D) a video keno game;
 - 15483 (E) a video lotto game;
 - 15484 (F) an 8-liner machine;
 - 15485 (G) a Pot O' Gold game;
 - 15486 (H) a video game involving a random or chance matching of pictures, words,

- 15487 numbers, or symbols; or
- 15488 (I) a video game that reveals a prize as the game is played; or
- 15489 (vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming
- 15490 scheme, or sweepstakes in an attempt to circumvent the requirements of this part
- 15491 or Article VI, Section 27, of the Utah Constitution.
- 15492 (17) "Skill-based game" means a game, played on a machine or device, the outcome of
- 15493 which is based, in whole or in part, on the skill of the player, regardless of whether a
- 15494 degree of chance is involved.
- 15495 (18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other
- 15496 promotion:
- 15497 (a) that an individual may enter with or without payment of any consideration;
- 15498 (b) that qualifies the person to win a prize; and
- 15499 (c) the result of which is based on chance.
- 15500 (19) "Vending machine" means a device:
- 15501 (a) that dispenses merchandise in exchange for money or any other item of value;
- 15502 (b) that provides full and adequate return of the value deposited;
- 15503 (c) through which the return of value is not conditioned on an element of chance or skill;
- 15504 and
- 15505 (d)(i) does not include a promotional activity; or
- 15506 (ii) includes a promotional activity that is clearly ancillary to the primary activity of a
- 15507 business.
- 15508 (20) "Video gaming device" means a device that includes all of the following:
- 15509 (a) a video display and computer mechanism for playing a game;
- 15510 (b) the length of play of any single game is not substantially affected by the skill,
- 15511 knowledge, or dexterity of the player;
- 15512 (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens,
- 15513 games, or credits accumulated or remaining;
- 15514 (d) a play option that permits a player to spend or risk varying amounts of money,
- 15515 tokens, or credits during a single game, in which the spending or risking of a greater
- 15516 amount of money, tokens, or credits:
- 15517 (i) does not significantly extend the length of play time of any single game; and

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- 15518 (ii) provides for a chance of greater return of credits, games, or money; and
15519 (e) an operating mechanism that, in order to function, requires inserting money, tokens,
15520 or other valuable consideration other than entering the user's name, birthdate, or
15521 contact information.

15522 Section 299. Section **76-9-1402**, which is renumbered from Section 76-10-1102 is renumbered
15523 and amended to read:

15524 **[76-10-1102]76-9-1402 . Participating in gambling.**

15525 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

15526 (2) [A person is guilty of] An actor commits participating in gambling if the [person:]

15527 [(a)] actor participates in:

15528 (a) [-]gambling[-or] ;

15529 (b) [-]fringe gambling[,-including any Internet or-] ; or

15530 (c) online gambling[;] .

15531 [(b) knowingly permits gambling or fringe gambling to be played, conducted, or dealt
15532 upon or in any real or personal property owned, rented, or under the control of the
15533 actor, whether in whole or in part; or]

15534 [(c) knowingly allows the use of any video gaming device that is:]

15535 [(i) in any business establishment or public place; and]

15536 [(ii) accessible for use by any person within the establishment or public place.]

15537 [(2) Gambling is a class B misdemeanor, except that any person who is convicted two or
15538 more times under this section is guilty of a class A misdemeanor.]

15539 [(3)(a) A person is guilty of a third-degree felony who intentionally provides or offers to
15540 provide any form of Internet or online gambling to any person in this state.]

15541 [(b) Subsection (3)(a) does not apply to an Internet service provider, a hosting company as
15542 defined in Section 76-10-1230, a provider of public telecommunications services as
15543 defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that
15544 the Internet service provider, hosting company, Internet advertising service, or provider
15545 of public telecommunications services:]

15546 [(i) transmits, routes, or provides connections for material without selecting the material; or]

15547 [(ii) stores or delivers the material at the direction of a user.]

15548 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B

- 15549 misdemeanor.
- 15550 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
- 15551 been convicted of a violation of Subsection (2).
- 15552 (4) If [any-]federal law authorizes [Internet] online gambling in the states of the United
- 15553 States and [that federal law-]provides that individual states may opt out of [Internet]
- 15554 online gambling, this state shall opt out of [Internet] online gambling in the manner
- 15555 provided by federal law and within the time frame provided by that law.
- 15556 (5) Regardless of whether a federal law is enacted that authorizes [Internet] online gambling
- 15557 in the states of the United States, this section [aets] and Section 76-9-1404 act as this
- 15558 state's prohibition of [any-]gambling, [including Internet] fringe gambling, or online
- 15559 gambling, in this state.
- 15560 Section 300. Section **76-9-1403** is enacted to read:
- 15561 **76-9-1403 . Permitting gambling.**
- 15562 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 15563 (2) An actor commits permitting gambling if the actor knowingly:
- 15564 (a) permits gambling or fringe gambling to be played, conducted, or dealt upon or in real
- 15565 or personal property owned, rented, or under the control of the actor, whether in
- 15566 whole or in part; or
- 15567 (b) allows the use of a video gaming device that is:
- 15568 (i) in a business establishment or public place; and
- 15569 (ii) accessible for use by an individual within the establishment or public place.
- 15570 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
- 15571 misdemeanor.
- 15572 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
- 15573 been convicted of a violation of Subsection (2).
- 15574 Section 301. Section **76-9-1404** is enacted to read:
- 15575 **76-9-1404 . Online gambling promotion.**
- 15576 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 15577 (2) An actor commits online gambling promotion if the actor intentionally provides or
- 15578 offers to provide a form of online gambling to an individual in this state.
- 15579 (3) A violation of Subsection (2) is a third degree felony.

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- 15580 (4) This section does not apply to an Internet service provider, a hosting company as
15581 defined in Section 76-5c-401, a provider of public telecommunications services as
15582 defined in Section 54-8b-2, or an Internet advertising service that:
- 15583 (a) transmits, routes, or provides connections for material without selecting the material;
15584 or
- 15585 (b) stores or delivers the material at the direction of a user.
- 15586 Section 302. Section **76-9-1405**, which is renumbered from Section 76-10-1104 is renumbered
15587 and amended to read:
- 15588 **[76-10-1104]76-9-1405 . General gambling promotion.**
- 15589 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 15590 [(1)] (2) [A person is guilty of] An actor commits general gambling promotion if the [person]
15591 actor:
- 15592 (a) [-]derives, or intends to derive, an economic benefit other than personal winnings
15593 from gambling or fringe gambling; and[-]
- 15594 [(a)] (b)(i) [the person-]induces or aids another individual to engage in gambling or
15595 fringe gambling; or
- 15596 [(b)] (ii) [the person-]knowingly invests in, finances, owns, controls, supervises,
15597 manages, or participates in [any-]gambling or fringe gambling.
- 15598 [(2)] (3)(a) [Gambling promotion-] Except as provided in Subsection (3)(b), a violation
15599 of Subsection (2) is a class A misdemeanor[-].
- 15600 (b) [-except that any person who is twice convicted under this section is guilty of] A
15601 violation of Subsection (2) is a third degree felony if the actor has previously been
15602 convicted of a violation of Subsection (2).
- 15603 Section 303. Section **76-9-1406**, which is renumbered from Section 76-10-1103 is renumbered
15604 and amended to read:
- 15605 **[76-10-1103]76-9-1406 . Gambling fraud.**
- 15606 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 15607 [(1)] (2) [A person is guilty of] An actor commits gambling fraud if the [person] actor:
- 15608 (a) [-]participates in gambling or fringe gambling;
- 15609 (b) [-and-]wins or acquires [to himself or herself or] gambling proceeds for the actor or
15610 another [any gambling proceeds] individual; and

15611 (c) ~~[-when the person]~~ knows the ~~[person]~~ actor has a lesser risk of losing or greater
15612 chance of winning than one or more of the other participants, and the risk is not
15613 known to all the other participants.

15614 ~~[(2) A person convicted of gambling fraud is punished as in the case of theft of property of~~
15615 ~~like value.]~~

15616 (3) A violation of Subsection (2) is:

15617 (a) a second degree felony if the value of what the actor wins or acquires for the actor or
15618 another individual is or exceeds \$5,000;

15619 (b) a third degree felony if the value of what the actor wins or acquires for the actor or
15620 another individual is or exceeds \$1,500 but is less than \$5,000;

15621 (c) a class A misdemeanor if the value of what the actor wins or acquires for the actor or
15622 another individual is or exceeds \$500 but is less than \$1,500; or

15623 (d) a class B misdemeanor if the value of what the actor wins or acquires for the actor or
15624 another individual is less than \$500.

15625 Section 304. Section **76-9-1407**, which is renumbered from Section 76-10-1105 is renumbered
15626 and amended to read:

15627 **[76-10-1105]76-9-1407 . Possessing a gambling device or record.**

15628 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

15629 ~~(2) [A person is guilty of-]~~ An actor commits possessing a gambling device or record if the [
15630 person] actor:

15631 (a) ~~[-]~~ knowingly possesses ~~[the]~~ a gambling device or record; and

15632 (b) ~~[-with intent]~~ intends to use the gambling device or record in gambling or fringe
15633 gambling.

15634 ~~[(2)] (3)(a) [Possession of a gambling device or record]~~ Except as provided in
15635 Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor[;] .

15636 (b) ~~[-except that any person who is convicted two or more times under this section is~~
15637 ~~guilty of]~~ A violation of Subsection (2) is a third degree felony if the actor has
15638 previously been convicted of a violation of Subsection (2).

15639 Section 305. Section **76-9-1408**, which is renumbered from Section 76-10-1110 is renumbered
15640 and amended to read:

15641 **[76-10-1110]76-9-1408 . Deriving a benefit from a fringe gaming device.**

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- 15642 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.
- 15643 [~~(1)~~] (2) [Notwithstanding any other provision in Title 76, Chapter 10, Offenses Against
- 15644 Public Health, Safety, Welfare, and Morals, it is unlawful for any person to derive or
- 15645 intend to derive an economic benefit from a fringe gaming device by] An actor commits
- 15646 deriving a benefit from a fringe gaming device if the actor:
- 15647 (a) ~~[permitting-]~~ permits a fringe gaming device to be located on or in ~~[any-]~~real or
- 15648 personal property owned, rented, or under the control of the ~~[person]~~ actor;
- 15649 (b) ~~[allowing-]~~ allows individual or public access or use of a fringe gaming device as part
- 15650 of ~~[any]~~ a business owned or operated by the ~~[person]~~ actor;
- 15651 (c) ~~[inducing or aiding a person]~~ induces or aids an individual to use a fringe gaming
- 15652 device;
- 15653 (d) ~~[investing in, financing, owning, controlling, or otherwise managing-]~~ invests in,
- 15654 finances, owns, controls, or otherwise manages a fringe gaming device; or
- 15655 (e) ~~[possessing-]~~ possesses a fringe gaming device with the intent to use or allow another
- 15656 individual to use the fringe gaming device.
- 15657 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
- 15658 misdemeanor.
- 15659 (b) A violation of Subsection (2) is a third degree felony if the actor has previously been
- 15660 convicted of a violation of Subsection (2).
- 15661 [~~(2)~~] (4) ~~[Subsection (1)-]~~ This section applies regardless of whether the fringe gaming
- 15662 device:
- 15663 (a) is server-based;
- 15664 (b) uses a simulated game terminal as a representation of a prize associated with the
- 15665 results of a sweepstakes entry;
- 15666 (c) uses a simulated game to influence or determine the result of the simulated game or
- 15667 the value of a prize;
- 15668 (d) selects the winner of a prize from a predetermined or finite pool of entries;
- 15669 (e) includes a pre-reveal feature;
- 15670 (f) predetermines a prize and reveals the prize at the time a sweepstakes entry result is
- 15671 revealed;
- 15672 (g) requires deposit of any money, coin, token, or gift certificate, or the use of a credit

- 15673 card, debit card, prepaid card, or any other method of payment to activate the device;
15674 (h) requires direct payment into the machine or device or remote activation of the device;
15675 (i) requires a purchase of a related product regardless of whether the product has
15676 legitimate value;
15677 (j) reveals the prize incrementally, regardless of whether a prize is awarded; or
15678 (k) includes a skill-based game.

15679 [~~(3) Each violation of this section is a separate offense.~~]

15680 [~~(4) A person who violates this section is guilty of:~~]

15681 [~~(a) a class A misdemeanor for the first offense; or~~]

15682 [~~(b) a third degree felony for a subsequent offense.~~]

15683 Section 306. Section **76-9-1409**, which is renumbered from Section 76-10-1104.5 is renumbered
15684 and amended to read:

15685 **~~[76-10-1104.5]~~ 76-9-1409 . Advertising or soliciting participation in a lottery.**

15686 (1)(a) [~~For purposes of~~] As used in this section[:],

15687 [(a) "~~Conspicuously~~] "conspicuously printed" means printed in either larger or bolder
15688 type size than the adjacent and surrounding material so as to be clearly legible to [
15689 any person] an individual viewing the print.

15690 [(b) "Lottery" means the same as defined in Section 76-10-1101.]

15691 (b) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

15692 (2) [~~It is unlawful for any person to distribute or disseminate any~~] An actor commits
15693 advertising or soliciting participation in a lottery if the actor distributes or disseminates
15694 an advertisement or other written or printed material containing an advertisement or
15695 solicitation for participation in [any] a lottery.[~~unless the advertisement or solicitation~~
15696 ~~contains or includes the words "Void in Utah" conspicuously printed].~~

15697 (3)(a) [~~Any person who is convicted of violating~~] Except as provided in Subsection

15698 (3)(b), a violation of Subsection (2) [shall be fined the sum] is subject to a fine of
15699 \$2,500.

15700 (b) [~~Any person who is twice or more convicted under this section shall be fined the sum~~
15701 ~~of~~] A violation of Subsection (2) is subject to a fine of \$10,000 if the actor has
15702 previously been convicted of a violation of Subsection (2).

15703 (4) This section does not apply if the advertisement or solicitation contains or includes the

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15704 words "Void in Utah" conspicuously printed in the advertisement or solicitation.
15705 Section 307. Section **76-9-1410**, which is renumbered from Section 76-10-1109 is renumbered
15706 and amended to read:

15707 **[76-10-1109]76-9-1410 . Obtaining a benefit from a confidence game.**

15708 (1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

15709 ~~[(1)] (2) [Any person who]~~ An actor commits obtaining a benefit from a confidence game if
15710 the actor knowingly obtains or attempts to obtain from [any other person any] another
15711 individual money or property by any means, instrument, or device commonly [called]
15712 referred to as a confidence game [shall be punished as in the case of theft of property of
15713 like value].

15714 (3) A violation of Subsection (2) is:

15715 (a) a second degree felony if the value of what the actor obtains is or exceeds \$5,000;

15716 (b) a third degree felony if the value of what the actor obtains is or exceeds \$1,500 but is
15717 less than \$5,000;

15718 (c) a class A misdemeanor if the value of what the actor obtains is or exceeds \$500 but is
15719 less than \$1,500; or

15720 (d) a class B misdemeanor if the value of what the actor obtains is less than \$500.

15721 ~~[(2)] (4) [In every-]~~ An indictment, information, or complaint under this section[,-it] shall be
15722 deemed and held to contain a sufficient description of the offense [to charge that the
15723 accused did, on, _____ (insert the date) unlawfully and knowingly obtain or attempt to
15724 obtain (as the case may be) from _____, (insert the name of the person or persons
15725 defrauded or attempted to be defrauded) his money or property (as the case may be) by
15726 means and by use of a confidence game] if the indictment, information, or complaint
15727 contains:

15728 (a) the date that the actor is accused of unlawfully and knowingly obtaining money or
15729 property from another individual;

15730 (b) the name of the individual from whom the actor is accused of obtaining money or
15731 property;

15732 (c) a description of the money or property obtained by the actor from the individual; and

15733 (d) a description of the confidence game the actor used to obtain the money or property
15734 from the individual.

15735 Section 308. Section **76-9-1411**, which is renumbered from Section 76-10-1112 is renumbered
15736 and amended to read:

15737 ~~[76-10-1112]~~ **76-9-1411 . Local control -- Seizure and disposition of gambling debts or**
15738 **proceeds.**

15739 (1) ~~[Nothing in this part preempts]~~ This part does not preempt or otherwise ~~[limits the~~
15740 ~~authority of]~~ limit a county or municipality ~~[to enact]~~ from enacting a local ordinance
15741 related to gambling or fringe gambling.

15742 ~~[(2) In accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, a~~
15743 ~~county or municipality may seize gambling debts, gambling proceeds, or fringe gaming~~
15744 ~~devices that are reasonably identifiable as being obtained or provided in violation of this~~
15745 ~~part or a local ordinance.]~~

15746 (2) The following that are reasonably identifiable as having been used or obtained in
15747 violation of this part or a local ordinance may be seized and are subject to forfeiture
15748 proceedings in accordance with Title 77, Chapter 11a, Seizure of Property and
15749 Contraband, or Title 77, Chapter 11b, Forfeiture of Seized Property:

- 15750 (a) gambling bets;
- 15751 (b) gambling proceeds;
- 15752 (c) gambling debts; and
- 15753 (d) fringe gaming devices.

15754 Section 309. Section **76-9-1412**, which is renumbered from Section 76-10-1113 is renumbered
15755 and amended to read:

15756 ~~[76-10-1113]~~ **76-9-1412 . Cause of action.**

15757 (1) An individual who suffers an economic loss as a result of a fringe gaming device, video
15758 gaming device, or gambling device or record may bring a cause of action against a
15759 person who operates or receives revenue from the fringe gaming device, video gaming
15760 device, or gambling device or record to recover damages, costs, and attorney fees.

15761 (2) An individual who brings suit under Subsection (1) may recover twice the amount of the
15762 economic loss described in Subsection (1).

15763 Section 310. Section **76-9-1501**, which is renumbered from Section 76-10-1503 is renumbered
15764 and amended to read:

15765 **Part 15. Criminal Offenses Relating to Bus Passenger Safety**

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15766 ~~[76-10-1503]~~ 76-9-1501 . **Definitions.**

15767 As used in this ~~[act]~~ part:

15768 (1)~~(a)~~ "Bus" means ~~[any]~~ a passenger bus or coach or other motor vehicle having a
15769 seating capacity of 15 or more passengers operated by a bus company for the purpose
15770 of carrying passengers or cargo for hire.

15771 ~~(b)~~ ~~[and]~~ "Bus" includes a transit vehicle, as defined in Section 17B-2a-802, of a public
15772 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

15773 (2)~~(a)~~ "Bus company" or "company" means ~~[any]~~ a person, group of persons, or
15774 corporation providing for-hire transportation to passengers or cargo by bus upon the
15775 highways in the state, including passengers and cargo in interstate or intrastate travel.
15776 ~~[These terms also include]~~

15777 ~~(b)~~ "Bus company" or "company" includes local public bodies, public transit districts,
15778 municipalities, public corporations, boards, and commissions established under the
15779 laws of the state providing transportation to passengers or cargo by bus upon the
15780 highways in the state, whether or not for hire.

15781 (3) "Charter" means a group of persons, pursuant to a common purpose and under a single
15782 contract, and at a fixed charge in accordance with a bus company's tariff, which has
15783 acquired the exclusive use of a bus to travel together to a specified destination or
15784 destinations.

15785 (4) "Passenger" means ~~[any]~~ a person transported or served by a bus company, including
15786 persons accompanying or meeting another being transported, any person shipping or
15787 receiving cargo, and any person purchasing a ticket or receiving a pass.

15788 (5)~~(a)~~ "Terminal" means a bus station or depot or any other facility operated or leased
15789 by or operated on behalf of a bus company.

15790 ~~(b)~~ ~~[and]~~ "Terminal" includes:

15791 ~~(i)~~ a transit facility, as defined in Section 17B-2a-802, of a public transit district
15792 under Title 17B, Chapter 2a, Part 8, Public Transit District Act~~[- This term~~
15793 ~~includes-]~~ ; and

15794 ~~(ii)~~ a reasonable area immediately adjacent to:

15795 ~~(A)~~ ~~[any]~~ a designated stop along the route traveled by ~~[any]~~ a bus operated by a
15796 bus company~~[-and-]~~ ; or

15797 (B) ~~[parking lots or areas adjacent to terminals]~~ a parking lot or an area adjacent to
15798 a terminal.

15799 Section 311. Section **76-9-1502**, which is renumbered from Section 76-10-1504 is renumbered
15800 and amended to read:

15801 ~~[76-10-1504]~~ **76-9-1502 . Bus hijacking.**

15802 [(1)(a)]

15803 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15804 (2) ~~[A person is guilty of]~~ An actor commits bus hijacking if the [person] actor seizes or
15805 exercises control, by force or violence or threat of force or violence, of a bus within the
15806 state.

15807 ~~[(b)]~~ (3) ~~[Bus hijacking]~~ A violation of Subsection (2) is a first degree felony.

15808 ~~[(2)(a) A person is guilty of assault with the intent to commit bus hijacking if the person~~
15809 ~~intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or~~
15810 ~~any other person in control of a bus so as to interfere with the performance of duties by~~
15811 ~~the person.]~~

15812 ~~[(b) Assault with the intent to commit bus hijacking is a second degree felony.]~~

15813 ~~[(3) A person who, in the commission of assault with intent to commit bus hijacking, uses~~
15814 ~~a dangerous weapon, as defined in Section 76-1-101.5, is guilty of a first degree felony.]~~

15815 Section 312. Section **76-9-1503** is enacted to read:

15816 **76-9-1503 . Assault with intent to commit bus hijacking.**

15817 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15818 (2) An actor commits assault with intent to commit bus hijacking if the actor intimidates,
15819 threatens, or commits assault or battery toward a driver, attendant, guard, or any other
15820 person in control of a bus so as to interfere with the performance of duties by the person.

15821 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
15822 degree felony.

15823 (b) A violation of Subsection (2) is a first degree felony if the actor used a dangerous
15824 weapon during the violation.

15825 Section 313. Section **76-9-1504**, which is renumbered from Section 76-10-1505 is renumbered
15826 and amended to read:

15827 ~~[76-10-1505]~~ **76-9-1504 . Unlawful discharge of a firearm or hurling of a missile into a bus or**

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15828 **terminal.**

15829 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15830 (2) [~~Any person who~~] Except as provided in Subsection (4), an actor commits unlawful

15831 discharge of a firearm or hurling of a missile into a bus or terminal if the actor

15832 discharges a firearm or hurls a missile at or into [any] a bus or terminal [~~shall be guilty of~~

15833 a third degree felony].

15834 (3) A violation of Subsection (2) is a third degree felony.

15835 [(2)] (4) [~~The prohibition of this~~] This section does not apply to elected or appointed peace

15836 officers or commercial security personnel who discharge firearms or hurl missiles in the

15837 course and scope of [their] the peace officer's or commercial security personnel's

15838 employment.

15839 Section 314. Section **76-9-1505**, which is renumbered from Section 76-10-1506 is renumbered

15840 and amended to read:

15841 **[76-10-1506]76-9-1505 . Unlawful conduct while on a bus.**

15842 (1)(a) As used in this section, "controlled substance" means the same as that term is

15843 defined in Section 58-37-2.

15844 (b) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15845 (2) [~~A person is guilty of a class C misdemeanor, if the person~~] An actor commits unlawful

15846 conduct while on a bus if the actor:

15847 (a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar

15848 language on a bus;

15849 (b) is in or upon any bus while unlawfully under the influence of a controlled substance [~~as defined in Section 58-37-2~~];

15850

15851 (c) fails to obey a reasonable request or order of a bus driver, bus company

15852 representative, a nondrinking designee other than the driver as provided in

15853 Subsection 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or

15854 terminal;

15855 (d) ingests [any] a controlled substance, unless prescribed by a physician or a medical

15856 facility, in or upon any bus, or drinks intoxicating liquor in or upon [any] a bus,

15857 except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526;

15858 or

15859 (e) smokes tobacco or other products in or upon [any] a bus, except a chartered bus.

15860 [(2)] (3) A violation of Subsection (2) is a class C misdemeanor.

15861 (4)(a) If ~~[any person violates Subsection (1)]~~ an actor violates Subsection (2), the driver
15862 of the bus or ~~[person]~~ individual in charge thereof may stop at the place where the
15863 offense is committed or at the next regular or convenient stopping place and remove [
15864 ~~such person]~~ the actor, using only such force as may be necessary to accomplish the
15865 removal, and the driver or ~~[person]~~ individual in charge may request the assistance of
15866 passengers to assist in ~~[the removal]~~ removing the actor.

15867 [(3)] (b) The driver or ~~[person]~~ individual in charge may cause the ~~[person so removed]~~
15868 removed actor to be detained and delivered to the proper authorities.

15869 Section 315. Section **76-9-1506**, which is renumbered from Section 76-10-1507 is renumbered
15870 and amended to read:

15871 ~~[76-10-1507]~~ **76-9-1506 . Unlawful refusal to leave a terminal -- Detention of violators --**
15872 **Private security personnel.**

15873 [(1)(a) In order to provide for the safety, welfare and comfort of passengers, a bus
15874 company may refuse admission to terminals to a person not having bona fide business
15875 within the terminal.]

15876 [(b) The refusal may not be inconsistent or contrary to state or federal laws or regulations,
15877 or to an ordinance of the political subdivision in which the terminal is located.]

15878 [(c) An authorized bus company representative may require a person in a terminal to
15879 identify himself and state his business.]

15880 [(d) Failure to comply with a request under Subsection (1)(c) or to state an acceptable
15881 business purpose is grounds for the representative to request that the person depart the
15882 terminal.]

15883 [(e) A person who refuses to comply with a request made under Subsection (1)(d) is guilty
15884 of a class C misdemeanor.]

15885 [(2)(a) A person who carries any highly flammable or hazardous material or device into a
15886 terminal or aboard a bus is guilty of a third degree felony.]

15887 [(b) The bus company may employ reasonable means, including mechanical, electronic or
15888 x-ray devices to detect the items concealed in baggage or upon the person of a passenger.]

15889 [(c) Upon the discovery of an item referred to in Subsection (2)(a), the company may

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15890 obtain possession and retain custody of the item until it is transferred to a peace officer.]

15891 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15892 (2) An actor commits unlawful refusal to leave a terminal if:

15893 (a) an authorized bus company representative asks the actor to identify the actor's self
15894 and state the ground for the actor's business in the terminal;

15895 (b) the actor:

15896 (i) fails to comply with the request described in Subsection (2)(a); or

15897 (ii) fails to state an acceptable business purpose;

15898 (c) the authorized bus company representative requests that the actor depart the terminal;

15899 (d) the request for departure described in Subsection (2)(c) is:

15900 (i) within the bus company's ability to refuse admission to a terminal to individuals
15901 who do not have a bona fide business within the terminal as part of the bus
15902 company's provision of safety, welfare, and comfort of passengers; and

15903 (ii) not inconsistent with or contrary to state or federal laws or regulations, or to an
15904 ordinance of the political subdivision in which the terminal is located; and

15905 (e) the actor refuses to comply with the request described in Subsection (2)(c) to depart
15906 the terminal.

15907 (3) A violation of Subsection (2) is a class C misdemeanor.

15908 [~~3~~] (4)(a) An authorized bus company representative may detain within a terminal or
15909 bus [any person violating] an actor who violates the provisions of this section for a
15910 reasonable time until law enforcement authorities arrive.

15911 (b) The detention described in Subsection (4)(a) does not constitute unlawful
15912 imprisonment and neither the bus company nor the representative is civilly or
15913 criminally liable upon grounds of unlawful imprisonment or assault, provided that
15914 only reasonable and necessary force is exercised against the detained [person] actor.

15915 [~~4~~] (5)(a) A bus company may employ or contract for private security personnel.

15916 (b) The private security personnel may:

15917 (i) detain within a terminal or bus [a person violating] an actor who violates this
15918 section for a reasonable time until law enforcement authorities arrive; and

15919 (ii) use reasonable and necessary force in subduing or detaining the [person] actor.

15920 Section 316. Section **76-9-1507** is enacted to read:

15921 **76-9-1507 . Unlawful material or device in a bus or a terminal -- Detention of**
15922 **violators -- Private security personnel.**

- 15923 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.
15924 (2) An actor commits unlawful material or device in a bus or a terminal if the actor carries a
15925 highly flammable or hazardous material or device into a terminal or aboard a bus.
15926 (3) A violation of Subsection (2) is a third degree felony.
15927 (4)(a) A bus company may employ reasonable means, including mechanical, electronic
15928 or x-ray devices, to detect the items concealed in baggage or upon the person of a
15929 passenger.
15930 (b) Upon discovery of a highly flammable or hazardous material or device, the bus
15931 company may obtain possession and retain custody of the material or device until the
15932 material or device is transferred to a peace officer.
15933 (5)(a) An authorized bus company representative may detain within a terminal or bus an
15934 actor who violates the provisions of this section for a reasonable time until law
15935 enforcement authorities arrive.
15936 (b) The detention does not constitute unlawful imprisonment and neither the bus
15937 company nor the representative is civilly or criminally liable upon grounds of
15938 unlawful imprisonment or assault, provided that only reasonable and necessary force
15939 is exercised against the detained actor.
15940 (6)(a) A bus company may employ or contract for private security personnel.
15941 (b) The private security personnel may:
15942 (i) detain within a terminal or bus an actor who violates this section for a reasonable
15943 time until law enforcement authorities arrive; and
15944 (ii) use reasonable and necessary force in subduing or detaining the actor.

15945 Section 317. Section **76-9-1508**, which is renumbered from Section 76-10-1508 is renumbered
15946 and amended to read:

15947 **[76-10-1508]76-9-1508 . Theft of baggage or cargo.**

- 15948 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.
15949 (2) ~~[Any person who]~~ An actor commits theft of baggage or cargo if the actor removes
15950 any baggage, cargo or other item transported upon a bus or stored in a terminal without
15951 the consent of:

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- 15952 (a) [-]the owner of the property; or
15953 (b) the bus company[-,]or [its] the bus company's duly authorized representative[-is guilty
15954 of theft and shall be punished pursuant to section 76-6-404].

15955 (3) A violation of Subsection (2) is punishable under Section 76-6-404.

15956 Section 318. Section **76-9-1509**, which is renumbered from Section 76-10-1509 is renumbered
15957 and amended to read:

15958 **[76-10-1509]76-9-1509 . Obstructing the operation of a bus.**

15959 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15960 (2) ~~[Any person who]~~ An actor commits obstructing the operation of a bus if the actor
15961 unlawfully obstructs or impedes by force or violence, or any means of intimidation, the
15962 regular operation of a bus~~[is guilty of a class C misdemeanor].~~

15963 (3) A violation of Subsection (2) is a class C misdemeanor.

15964 Section 319. Section **76-9-1510**, which is renumbered from Section 76-10-1510 is renumbered
15965 and amended to read:

15966 **[76-10-1510]76-9-1510 . Conspiracy to obstruct the operation of a bus.**

15967 (1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

15968 (2) ~~[Two or more persons who]~~ An actor commits conspiracy to obstruct the operation
15969 of a bus if the actor willfully [combine or conspire] combines or conspires with another
15970 individual to violate Section [76-10-1509 shall each be guilty of a class C misdemeanor]
15971 76-9-1509, Obstructing the operation of a bus.

15972 (3) A violation of Subsection (2) is a class C misdemeanor.

15973 Section 320. Section **76-9-1601**, which is renumbered from Section 76-10-1902 is renumbered
15974 and amended to read:

15975 **Part 16. Money Laundering and Currency Transaction Reporting**

15976 **[76-10-1902]76-9-1601 . Definitions.**

15977 As used in this part:

15978 (1) "Bank" means an agent, agency, or office in this state of a person doing business in [any-]
15979 one of the following capacities:

15980 (a) a commercial bank or trust company organized under the laws of this state or of the
15981 United States;

15982 (b) a private bank;

- 15983 (c) a savings and loan association or a building and loan association organized under the
15984 laws of the United States;
- 15985 (d) an insured institution as defined in Section 401 of the National Housing Act;
- 15986 (e) a savings bank, industrial bank, or other thrift institution;
- 15987 (f) a credit union organized under the laws of this state or of the United States; or
- 15988 (g) any other organization chartered under Title 7, Financial Institutions Act, and subject
15989 to the supervisory authority set forth in that title.
- 15990 (2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a
15991 transaction.
- 15992 (3)(a) "Currency" means the coin and paper money of the United States or of another
15993 country that is designated as legal tender, that circulates, and is customarily used and
15994 accepted as a medium of exchange in the country of issuance.
- 15995 (b) "Currency" includes United States silver certificates, United States notes, Federal
15996 Reserve notes, and foreign bank notes customarily used and accepted as a medium of
15997 exchange in a foreign country.
- 15998 (4) "Financial institution" means an agent, agency, branch, or office within this state of a
15999 person doing business, whether or not on a regular basis or as an organized business
16000 concern, in one or more of the following capacities:
- 16001 (a) a bank, except bank credit card systems;
- 16002 (b) a broker or dealer in securities;
- 16003 (c) a currency dealer or exchanger, including a person engaged in the business of check
16004 cashing;
- 16005 (d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling
16006 agent exclusively who does not sell more than \$150,000 of the instruments within
16007 any 30-day period;
- 16008 (e) a licensed transmitter of funds or other person engaged in the business of
16009 transmitting funds;
- 16010 (f) a telegraph company;
- 16011 (g) a person subject to supervision by a state or federal supervisory authority; or
- 16012 (h) the United States Postal Service regarding the sale of money orders.
- 16013 (5) "Financial transaction" means a transaction:

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16014 (a) involving the movement of funds by wire or other means or involving one or more
16015 monetary instruments, which in any way or degree affects commerce; or

16016 (b) involving the use of a financial institution that is engaged in, or its activities affect
16017 commerce in any way or degree.

16018 [~~(6) The phrase "knows that the property involved represents the proceeds of some form of~~
16019 ~~unlawful activity" means that the person knows or it was represented to the person that~~
16020 ~~the property involved represents proceeds from a form of activity, although the person~~
16021 ~~does not necessarily know which form of activity, that constitutes a crime under state or~~
16022 ~~federal law, regardless of whether or not the activity is specified in Subsection (12).]~~

16023 [~~(7)~~ (6) "Monetary instruments" means coins or currency of the United States or of another
16024 country, travelers checks, personal checks, bank checks, money orders, and investment
16025 securities or negotiable instruments in bearer form or in other form so that title passes
16026 upon delivery.

16027 [~~(8)~~ (7) "Person" means an individual, corporation, partnership, trust or estate, joint stock
16028 company, association, syndicate, joint venture, or other unincorporated organization or
16029 group, and all other entities cognizable as legal personalities.

16030 [~~(9)~~ (8) "Proceeds" means property acquired or derived directly or indirectly from,
16031 produced through, realized through, or caused by an act or omission and includes
16032 property of any kind.

16033 [~~(10)~~ (9) "Property" means anything of value, and includes an interest in property,
16034 including a benefit, privilege, land, or right with respect to anything of value, whether
16035 real or personal, tangible or intangible.

16036 [~~(11)~~ (10) "Prosecuting agency" means the office of the attorney general or the office of the
16037 county attorney, including an attorney on the staff whether acting in a civil or criminal
16038 capacity.

16039 [~~(12) "Specified unlawful activity" means an unlawful activity defined as an unlawful~~
16040 ~~activity in Section 76-10-1602, except an illegal act under Title 18, Section 1961(1)(B);~~
16041 ~~(C), and (D), United States Code, and includes activity committed outside this state~~
16042 ~~which, if committed within this state, would be unlawful activity.]~~

16043 [~~(13)~~ (11) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or
16044 other disposition. With respect to a financial institution, "transaction" includes a

16045 deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of
16046 credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary
16047 instrument, or any other payment, transfer, or delivery by, through, or to a financial
16048 institution, by whatever means effected.

16049 [(14)] (12) "Transaction in currency" means a transaction involving the physical transfer of
16050 currency from one person to another. A transaction that is a transfer of funds by means
16051 of bank check, bank draft, wire transfer, or other written order that does not include the
16052 physical transfer of currency is not a transaction in currency under this chapter.

16053 (13)(a) "Unlawful activity" means the same as that term is defined in Section 76-17-401.

16054 (b) "Unlawful activity" includes activity committed outside this state which, if
16055 committed within this state, would be unlawful activity.

16056 (c) "Unlawful activity" does not include an illegal act under 18 U.S.C. Sec. 1961(1)(B),
16057 (C), and (D).

16058 Section 321. Section **76-9-1602**, which is renumbered from Section 76-10-1903 is renumbered
16059 and amended to read:

16060 **[76-10-1903] 76-9-1602 . Money laundering.**

16061 (1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

16062 (2) [A person-] An actor commits [the offense of-]money laundering [who] if the actor:

16063 (a)(i) transports, receives, or acquires [the-]property [which] that is [in fact-] the
16064 proceeds of [the specified-]unlawful activity[;] ; and

16065 (ii) [knowing] knows that the property [involved-]represents the proceeds of [some
16066 form of-]unlawful activity;

16067 (b)(i) makes proceeds of unlawful activity available to another person by transaction,
16068 transportation, or other means[;] ; and

16069 (ii) [knowing] knows that the proceeds are intended to be used for the purpose of
16070 continuing or furthering the commission of[specified-] unlawful activity; or

16071 (c)(i) conducts a transaction involving property;

16072 (ii) [knowing] knows that the property [involved in the transaction-]represents the
16073 proceeds of [some form of-]unlawful activity; and

16074 (iii) conducts the transaction with the intent:

16075 [(†)] (A) to promote the unlawful activity;

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16076 [(ii)] (B) to conceal or disguise the nature, location, source, ownership, or control
16077 of the property; or

16078 [(iii)] (C) to avoid a transaction reporting requirement under this [chapter] part or
16079 under federal law[; or] .

16080 [(d) knowingly accepts or receives property which is represented to be proceeds of
16081 unlawful activity.]

16082 [(2) Under Subsection (1)(d), knowledge that the property represents the proceeds of
16083 unlawful activity may be established by proof that a law enforcement officer or an
16084 individual acting at the request of a law enforcement officer made the representations
16085 and the person's subsequent statements or actions indicate that the person believed those
16086 representations to be true.]

16087 (3) A violation of Subsection (2) is a second degree felony.

16088 (4) Each act committed in violation of Subsection (2) that involves the movement of funds
16089 in excess of \$10,000 is a separate violation under this section.

16090 (5) Under Subsection (2)(a)(ii), the phrase "knows that the property involved represents the
16091 proceeds of unlawful activity" means that the actor knows, or it was represented to the
16092 actor, that the property involved represents proceeds from a form of unlawful activity,
16093 although the actor does not necessarily know which form of activity, that constitutes a
16094 crime under state or federal law, regardless of whether or not the activity is specified in
16095 the definition of unlawful activity.

16096 Section 322. Section **76-9-1603** is enacted to read:

16097 **76-9-1603 . Accepting the proceeds of unlawful activity.**

16098 (1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

16099 (2) An actor commits accepting the proceeds of unlawful activity if the actor knowingly
16100 accepts or receives property that is represented to the actor to be the proceeds of
16101 unlawful activity.

16102 (3) A violation of Subsection (2) is a third degree felony.

16103 (4) Each act committed in violation of Subsection (2) that involves the movement of funds
16104 in excess of \$10,000 is a separate violation under this section.

16105 (5) Under Subsection (2), knowledge that the property represents the proceeds of unlawful
16106 activity may be established by proof that a law enforcement officer or an individual

16107 acting at the request of a law enforcement officer made the representations and the
16108 actor's subsequent statements or actions indicate that the actor believed those
16109 representations to be true.

16110 Section 323. Section **76-9-1604**, which is renumbered from Section 76-10-1906 is renumbered
16111 and amended to read:

16112 **[76-10-1906] 76-9-1604 . Failure to report a financial transaction of more than \$10,000.**

16113 ~~[(1)(a) A person engaged in a trade or business, except a financial institution, who~~
16114 ~~receives more than \$10,000 as described in Subsection (1)(b) shall complete and file~~
16115 ~~with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I,~~
16116 ~~concerning returns relating to currency received in trade or business.]~~

16117 ~~[(b) Subsection (1)(a) applies if the person described in Subsection (1) receives more than~~
16118 ~~\$10,000 in domestic or foreign currency:]~~

16119 ~~[(i) in one transaction; or]~~

16120 ~~[(ii) through two or more related transactions during one business day.]~~

16121 ~~[(e) A person who knowingly and intentionally fails to comply with the reporting~~
16122 ~~requirements of this Subsection (1) is:]~~

16123 ~~[(i) on a first conviction, guilty of a class C misdemeanor; and]~~

16124 ~~[(ii) on a second or subsequent conviction, guilty of a class A misdemeanor.]~~

16125 ~~[(d) A person is guilty of a third degree felony who knowingly and intentionally violates~~
16126 ~~this Subsection (1) and the violation is committed either:]~~

16127 ~~[(i) in furtherance of the commission of any other violation of state law; or]~~

16128 ~~[(ii) as part of a pattern of illegal activity involving transactions exceeding \$100,000 in any~~
16129 ~~12-month period.]~~

16130 (1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

16131 (2) An actor commits failure to report a financial transaction of more than \$10,000 if the
16132 actor:

16133 (a) is engaged in a trade or business;

16134 (b) receives more than \$10,000 in domestic or foreign currency:

16135 (i) in one transaction; or

16136 (ii) through two or more related transactions during one business day; and

16137 (c) intentionally or knowingly fails to complete and file with the State Bureau of

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16138 Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns
16139 relating to currency received in trade or business.

16140 (3)(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is
16141 a class C misdemeanor.

16142 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A
16143 misdemeanor if the actor has previously been convicted of violating this section.

16144 (c) A violation of Subsection (2) is a third degree felony if the violation is committed:

16145 (i) in furtherance of the commission of any other violation of state law; or

16146 (ii) as part of a pattern of illegal activity involving transactions exceeding \$100,000
16147 in any 12-month period.

16148 [(2)] (4)(a) The State Bureau of Investigation and the Office of the Attorney General:

16149 (i) shall enforce compliance with Subsection [(+)] (2); and

16150 (ii) are custodians of and have access to all information and documents filed under
16151 Subsection [(+)] (2).

16152 (b) [~~The information~~] Information filed by a trade or business in compliance with this
16153 section is confidential, except a law enforcement agency, county attorney, or district
16154 attorney, when establishing a clear need for the information for investigative
16155 purposes, shall have access to the information and shall maintain the information in a
16156 confidential manner except as otherwise provided by the Utah Rules of Criminal
16157 Procedure.

16158 (5) Under this section, each failure by an actor to file a report required under Subsection (2)
16159 is a separate violation.

16160 (6) This section does not apply to a financial institution.

16161 Section 324. Section **76-9-1701** is enacted to read:

16162

Part 17. Unlawful Use of a Laser Pointer

16163 **76-9-1701 . Definitions.**

16164 As used in this part:

16165 (1) "Aircraft" means the same as that term is defined in Section 72-10-102.

16166 (2) "Laser light" means light that is amplified by stimulated emission of radiation.

16167 (3) "Laser pointer" means any portable device that emits a visible beam of laser light that
16168 may be directed at an individual.

16169 (4) "Law enforcement officer" means an officer under Section 53-13-103.
16170 Section 325. Section **76-9-1702**, which is renumbered from Section 76-10-2501 is renumbered
16171 and amended to read:

16172 ~~[76-10-2501]~~ **76-9-1702 . Unlawful use of a laser pointer against a motor vehicle.**

16173 [(1) As used in this section:]

16174 [(a) "Aircraft" means the same as that term is defined in Section 72-10-102.]

16175 [(b) "Laser light" means light that is amplified by stimulated emission of radiation.]

16176 [(c) "Laser pointer" means any portable device that emits a visible beam of laser light that
16177 may be directed at an individual.]

16178 [(d) "Law enforcement officer" means an officer under Section 53-13-103.]

16179 (1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

16180 (2) An actor commits unlawful use of a laser pointer against a motor vehicle if the actor
16181 directs a beam of laser light from a laser pointer at~~[:]~~ a moving motor vehicle or the
16182 occupants of a moving motor vehicle.

16183 [(a) a moving motor vehicle or the occupants of a moving motor vehicle;]

16184 [(b) one whom the actor knows or has reason to know is a law enforcement officer; or]

16185 [(c) an aircraft or the occupants of an aircraft.]

16186 [(3) It is an affirmative defense to a charge under Subsection (2)(b) that:]

16187 [(a) the law enforcement officer was:]

16188 [(i) not in uniform;]

16189 [(ii) not traveling in a vehicle identified as a law enforcement vehicle; and]

16190 [(iii) not otherwise engaged in an activity that would give the actor reason to know the law
16191 enforcement officer to be a law enforcement officer; and]

16192 [(b) the law enforcement officer was not otherwise known by the actor to be a law
16193 enforcement officer.]

16194 [(4)(a) A violation of Subsection (2)(a) is an infraction.]

16195 [(b) A violation of Subsection (2)(b) is a class C misdemeanor.]

16196 [(c)(i) Except as provided in Subsection (4)(c)(ii) or (4)(c)(iii), a violation of Subsection
16197 (2)(c) is a class B misdemeanor.]

16198 [(ii) Except as provided in Subsection (4)(c)(iii), a violation of Subsection (2)(c) is a class
16199 A misdemeanor if the actor previously has been convicted of a violation of Subsection

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- 16200 (2)(e).]
- 16201 [(iii) A violation of Subsection (2)(e) is a third degree felony if the actor's conduct causes
- 16202 an aircraft to crash or perform an emergency landing.]
- 16203 (3) A violation of Subsection (2) is an infraction.
- 16204 [(5)] (4) If the violation of this section constitutes an offense subject to a greater penalty
- 16205 under another provision of this title than is provided under this section, this section does
- 16206 not prohibit the prosecution and sentencing for the offense subject to a greater penalty.
- 16207 Section 326. Section **76-9-1703** is enacted to read:
- 16208 **76-9-1703 . Unlawful use of a laser pointer against an aircraft.**
- 16209 (1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.
- 16210 (2) An actor commits unlawful use of a laser pointer against an aircraft if the actor directs a
- 16211 beam of laser light from a laser pointer at an aircraft or the occupants of an aircraft.
- 16212 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
- 16213 misdemeanor.
- 16214 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A
- 16215 misdemeanor if the actor previously has been convicted of a violation of Subsection
- 16216 (2).
- 16217 (c) A violation of Subsection (2) is a third degree felony if the actor's conduct causes an
- 16218 aircraft to crash or perform an emergency landing.
- 16219 (4) If the violation of this section constitutes an offense subject to a greater penalty under
- 16220 another provision of this title than is provided under this section, this section does not
- 16221 prohibit the prosecution and sentencing for the offense subject to a greater penalty.
- 16222 Section 327. Section **76-9-1704** is enacted to read:
- 16223 **76-9-1704 . Unlawful use of a laser pointer against a law enforcement officer.**
- 16224 (1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.
- 16225 (2) An actor commits unlawful use of a laser pointer against a law enforcement officer if
- 16226 the actor directs a beam of laser light from a laser pointer at an individual who the actor
- 16227 knows or has reason to know is a law enforcement officer.
- 16228 (3) A violation of Subsection (2) is a class C misdemeanor.
- 16229 (4) It is an affirmative defense to a charge under Subsection (2) that:
- 16230 (a) the law enforcement officer was:

- 16231 (i) not in uniform;
16232 (ii) not traveling in a vehicle identified as a law enforcement vehicle; and
16233 (iii) not otherwise engaged in an activity that would give the actor reason to know the
16234 law enforcement officer to be a law enforcement officer; and
16235 (b) the law enforcement officer was not otherwise known by the actor to be a law
16236 enforcement officer.
16237 (5) If the violation of this section constitutes an offense subject to a greater penalty under
16238 another provision of this title than is provided under this section, this section does not
16239 prohibit the prosecution and sentencing for the offense subject to a greater penalty.

16240 Section 328. Section **76-9-1801** is enacted to read:

16241 **Part 18. Litter and Recycling Violations**

16242 **76-9-1801 . Definitions.**

16243 Reserved.

16244 Section 329. Section **76-9-1802**, which is renumbered from Section 76-10-2701 is renumbered
16245 and amended to read:

16246 **[76-10-2701]76-9-1802 . Unlawful littering on land or waterway.**

- 16247 (1)(a) As used in this section, "litter" includes a glass bottle, glass, a nail, tack, wire,
16248 can, barbed wire, board, trash or garbage, paper or paper products, or any other
16249 substance that would or could mar or impair the scenic aspect or beauty of the land.
16250 (b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.
16251 (2) An actor commits unlawful littering on land or waterway if the actor drops, throws,
16252 deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, litter in a
16253 A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited,
16254 or discarded on any] park, recreation area, or other public or private land, or waterway,[
16255 any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage,
16256 paper or paper products, or any other substance which would or could mar or impair the
16257 scenic aspect or beauty of the land in the state whether under private, state, county,
16258 municipal, or federal ownership] without the permission of the owner or person having
16259 control or custody of the land or waterway.
16260 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
16261 fine of \$100 for each violation.

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- 16262 (b) The court may require the actor to participate in at least four hours of cleaning up:
16263 (i) litter caused by the actor's offense; and
16264 (ii) existing litter from a safe area designated by the court.
- 16265 [~~(2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown,~~
16266 ~~deposited, or discarded, on any park, recreation area, or other public or private land or~~
16267 ~~waterway any destructive, injurious, or unsightly material shall:]~~
16268 ~~[(a) immediately remove the material or cause it to be removed; and]~~
16269 ~~[(b) deposit the material in a receptacle designed to receive the material.]~~
- 16270 [~~(3) A person distributing commercial handbills, leaflets, or other advertising shall take~~
16271 ~~whatever measures are reasonably necessary to keep the material from littering public or~~
16272 ~~private property.]~~
- 16273 [~~(4) A person removing a wrecked or damaged vehicle from a park, recreation area, or~~
16274 ~~other public or private land shall remove any glass or other injurious substance dropped~~
16275 ~~from the vehicle in the park, recreation area, or other public or private land.]~~
- 16276 [~~(5) A person in charge of a construction or demolition site shall take reasonable steps to~~
16277 ~~prevent the accumulation of litter at the construction or demolition site.]~~
- 16278 [~~(6) A law enforcement officer as defined in Section 53-13-103, within the law~~
16279 ~~enforcement officer's jurisdiction:]~~
16280 ~~[(a) shall enforce the provisions of this section;]~~
16281 ~~[(b) may issue citations to a person who violates any of the provisions of this section; and]~~
16282 ~~[(c) may serve and execute all warrants, citations, and other processes issued by any court~~
16283 ~~in enforcing this section.]~~
- 16284 [~~(7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline service~~
16285 ~~station, shopping center, grocery store parking lot, tavern parking lot, parking lots of~~
16286 ~~industrial firms, marina, boat launching area, boat moorage and fueling station, public~~
16287 ~~and private pier, beach, and bathing area shall maintain sufficient litter receptacles on~~
16288 ~~the premises to accommodate the litter that accumulates.]~~
- 16289 [~~(8)] (4) A municipality within [its] the municipality's corporate limits and a county outside~~
16290 ~~of incorporated municipalities may enact local ordinances to carry out the provisions of~~
16291 ~~this section.~~
- 16292 Section 330. Section **76-9-1803** is enacted to read:

16293 **76-9-1803 . Unlawful failure to prevent advertising materials from becoming**
16294 **litter.**

- 16295 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.
- 16296 (2) An actor commits unlawful failure to prevent advertising materials from becoming litter
16297 if the actor:
- 16298 (a) distributes commercial handbills, leaflets, or other advertising materials; and
16299 (b) fails take measures that are reasonably necessary to keep the commercial handbills,
16300 leaflets, or other advertising materials from littering public or private property.
- 16301 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
16302 fine of \$100 for each violation.
- 16303 (b) The court may require the actor to participate in at least four hours of cleaning up:
16304 (i) litter caused by the actor's offense; and
16305 (ii) existing litter from a safe area designated by the court.
- 16306 (4) A municipality within the municipality's corporate limits and a county outside of
16307 incorporated municipalities may enact local ordinances to carry out the provisions of this
16308 section.

16309 Section 331. Section **76-9-1804** is enacted to read:

16310 **76-9-1804 . Unlawful failure to remove injurious substance while removing a**
16311 **vehicle.**

- 16312 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.
- 16313 (2) An actor commits unlawful failure to remove injurious substance while removing a
16314 vehicle if the actor:
- 16315 (a) removes a wrecked or damaged vehicle from a park, recreation area, or other public
16316 or private land; and
16317 (b) fails to remove glass or other injurious substance dropped from the vehicle in the
16318 park, recreation area, or other private or public land.
- 16319 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
16320 fine of \$100 for each violation.
- 16321 (b) The court may require the actor to participate in at least four hours of cleaning up:
16322 (i) the glass or other injurious substance dropped from the vehicle; and
16323 (ii) existing litter from a safe area designated by the court.

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16324 (4) A municipality within the municipality's corporate limits and a county outside of
16325 incorporated municipalities may enact local ordinances to carry out the provisions of this
16326 section.

16327 Section 332. Section **76-9-1805** is enacted to read:

16328 **76-9-1805 . Unlawful failure to prevent accumulation of litter at a construction**
16329 **or demolition site.**

16330 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

16331 (2) An actor commits unlawful failure to prevent accumulation of litter at a construction or
16332 demolition site if the actor:

16333 (a) is in charge of a construction or demolition site; and

16334 (b) fails to take reasonable steps to prevent the accumulation of litter at the construction
16335 or demolition site.

16336 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum
16337 fine of \$100 for each violation.

16338 (b) The court may require the actor to participate in at least four hours of cleaning up:

16339 (i) the litter caused by the actor's offense; and

16340 (ii) existing litter from a safe area designated by the court.

16341 (4) A municipality within the municipality's corporate limits and a county outside of
16342 incorporated municipalities may enact local ordinances to carry out the provisions of this
16343 section.

16344 Section 333. Section **76-9-1806** is enacted to read:

16345 **76-9-1806 . Unlawful failure to provide sufficient litter receptacles.**

16346 (1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

16347 (2) An actor commits unlawful failure to provide sufficient litter receptacles if the actor:

16348 (a) is an operator of a park, campground, trailer park, drive-in restaurant, gasoline
16349 service station, shopping center, grocery store parking lot, tavern parking lot, parking
16350 lot of an industrial firm, marina, boat launching area, boat moorage and fueling
16351 station, public or private pier, beach, or bathing area; and

16352 (b) fails to maintain sufficient litter receptacles on the premises to accommodate the
16353 litter that accumulates on the premises.

16354 (3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum

16355 fine of \$100 for each violation.

16356 (b) The court may require the actor to participate in at least four hours of cleaning up:

16357 (i) the litter caused by the actor's offense; and

16358 (ii) existing litter from a safe area designated by the court.

16359 (4) A municipality within the municipality's corporate limits and a county outside of

16360 incorporated municipalities may enact local ordinances to carry out the provisions of this

16361 section.

16362 Section 334. Section **76-9-1807**, which is renumbered from Section 76-10-2101 is renumbered
16363 and amended to read:

16364 **~~76-10-2101~~76-9-1807 . Unlawful misuse of a recycling bin.**

16365 (1)(a) As used in this section:

16366 [(a)] (i) "Recycling" means the process of collecting materials diverted from the waste
16367 stream for reuse.

16368 [(b)] (ii) "Recycling bin" means any receptacle made available to the public by a
16369 governmental entity or private business for the collection of any source-separated
16370 item for recycling purposes.

16371 (b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

16372 (2) ~~[It is an infraction to place any-]~~ An actor commits unlawful misuse of a recycling bin if:

16373 (a) the actor places a prohibited item or substance in a recycling bin; and

16374 (b) ~~[if the]~~ the recycling bin is posted with the following information printed legibly in
16375 basic English:

16376 [(a)] (i) a descriptive list of the items that may be deposited in the recycling bin,
16377 entitled in boldface capital letters: "ITEMS YOU MAY DEPOSIT IN THIS
16378 RECYCLING BIN:";

16379 [(b)] (ii) at the end of the list in Subsection ~~[(2)(a),]~~ (2)(b)(i), the following statement
16380 in boldface capital letters: "REMOVING FROM THIS BIN ANY ITEM THAT IS
16381 LISTED ABOVE AND THAT YOU DID NOT PLACE IN THE CONTAINER
16382 IS THE CRIMINAL OFFENSE OF THEFT, PUNISHABLE BY LAW.";

16383 [(e)] (iii) the following statement in boldface capital letters: "DEPOSIT OF ANY
16384 OTHER ITEM IN THIS RECYCLING BIN IS AGAINST THE LAW.";

16385 ~~[(d)]~~ (iv) the following statement in boldface capital letters, posted on the recycling

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16386 collection container in close proximity to the other notices required under [
16387 Subsections (2)(a), (b), and (c)] Subsection (2)(b): "PLACING ANY ITEM OR
16388 SUBSTANCE IN THIS RECYCLING BIN OTHER THAN THOSE ALLOWED
16389 IN THE LIST POSTED ON THIS BIN IS AN INFRACTION, PUNISHABLE
16390 BY A MAXIMUM FINE OF \$750."; and
16391 [(e)] (v) the name and telephone number of the entity that owns the recycling bin or is
16392 responsible for its placement and maintenance.

16393 (3) A violation of Subsection (2) is an infraction.

16394 Section 335. Section **76-9-1901** is enacted to read:

16395 **Part 19. Unlawful Contraband Compartment in a Vehicle**

16396 **76-9-1901 . Definitions.**

16397 As used in this part:

16398 (1)(a) "Compartment" means any box, container, space, or enclosure:

16399 (i) that is intended or designed to conceal, hide, or otherwise prevent the discovery of
16400 contraband; and

16401 (ii) that is within a vehicle or attached to a vehicle.

16402 (b) "Compartment" includes:

16403 (i) false, altered, or modified fuel tanks;

16404 (ii) original factory equipment of a vehicle that is modified, altered, or changed to
16405 accommodate or contain contraband; and

16406 (iii) a box, container, space, or enclosure that is fabricated, made, created from, or
16407 added to the existing structure of a vehicle.

16408 (2)(a) "Contraband" means any property, item, or substance that is unlawful to produce
16409 or possess under state or federal law.

16410 (b) "Contraband" includes any cash or monetary instrument that is the proceeds of an
16411 unlawful activity under Subsection 76-17-401(4).

16412 (3) "Motor vehicle" means the same as that term is defined in Section 41-6a-102.

16413 (4) "Semitrailer" means the same as that term is defined in Section 41-6a-102.

16414 (5) "Trailer" means the same as that term is defined in Section 41-1a-102.

16415 (6) "Vehicle" means a motor vehicle, a trailer, or a semitrailer.

16416 Section 336. Section **76-9-1902**, which is renumbered from Section 76-10-2801 is renumbered

16417 and amended to read:

16418 ~~[76-10-2801]~~ **76-9-1902 . Vehicle compartment for contraband -- Penalties.**

16419 [(1) ~~As used in this section:~~]

16420 [(a)(i) ~~"Compartment" means any box, container, space, or enclosure:~~]

16421 [(A) ~~that is intended or designed to conceal, hide, or otherwise prevent the discovery of~~
16422 ~~contraband; and]~~

16423 [(B) ~~that is within a vehicle or attached to a vehicle.~~]

16424 [(ii) ~~"Compartment" includes:~~]

16425 [(A) ~~false, altered, or modified fuel tanks;~~]

16426 [(B) ~~original factory equipment of a vehicle that is modified, altered, or changed to~~
16427 ~~accommodate or contain contraband; and]~~

16428 [(C) ~~a box, container, space, or enclosure that is fabricated, made, created from, or added~~
16429 ~~to the existing structure of a vehicle.~~]

16430 [(b)(i) ~~"Contraband" means any property, item, or substance which is unlawful to produce~~
16431 ~~or possess under state or federal law.~~]

16432 [(ii) ~~"Contraband" includes any cash or monetary instrument that is the proceeds of an~~
16433 ~~unlawful activity under Subsection 76-10-1602(4).~~]

16434 [(e) ~~"Motor vehicle" has the same meaning as in Section 41-6a-102.~~]

16435 [(d) ~~"Semitrailer" has the same meaning as in Section 41-6a-102.~~]

16436 [(e) ~~"Trailer" has the same meaning as in Section 41-1a-102.~~]

16437 [(f) ~~"Vehicle" means a motor vehicle, a trailer, and a semitrailer.~~]

16438 (1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

16439 (2) ~~[It is a class A misdemeanor for a person to]~~ An actor commits unlawful possession,
16440 use, or control of a vehicle with a contraband compartment if the actor knowingly [
16441 possess, use, or control] possesses, uses, or controls a vehicle [which] that has a
16442 compartment with the intent to store, conceal, or transport contraband in the
16443 compartment.

16444 [(3) ~~It is a third-degree felony for a person to facilitate the storage, concealment, or~~
16445 ~~transportation of contraband by:~~]

16446 [(a) ~~designing, constructing, building, altering, or fabricating a compartment for a vehicle;~~]

16447 [(b) ~~installing or creating a compartment in a vehicle; or]~~

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16448 [(e) attaching a compartment to a vehicle.]

16449 (3) A violation of Subsection (2) is a class A misdemeanor.

16450 (4) The trier of fact may infer that [~~a person~~] an actor intended to store, conceal, or transport
16451 contraband if:

16452 (a) [~~the~~] [person] actor possesses, uses, or controls a vehicle that has a compartment[~~,~~] ;
16453 and

16454 (b) [~~the~~] the compartment contains:

16455 [(a)] (i) contraband; or

16456 [(b)] (ii) evidence of prior storage, concealment, or transportation of contraband.

16457 Section 337. Section **76-9-1903** is enacted to read:

16458 **76-9-1903 . Unlawful creation, installation, or attachment of a contraband**
16459 **compartment.**

16460 (1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

16461 (2) An actor commits unlawful creation, installation, or attachment of a contraband
16462 compartment if the actor facilitates the storage, concealment, or transportation of
16463 contraband by:

16464 (a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;

16465 (b) installing or creating a compartment in a vehicle; or

16466 (c) attaching a compartment to a vehicle.

16467 (3) A violation of Subsection (2) is a third degree felony.

16468 (4) The trier of fact may infer that an actor intends to store, conceal, or transport contraband
16469 if:

16470 (a) the actor possesses, uses, or controls a vehicle that has a compartment; and

16471 (b) the compartment contains:

16472 (i) contraband; or

16473 (ii) evidence of prior storage, concealment, or transportation of contraband.

16474 Section 338. Section **76-9-2001** is enacted to read:

16475 **Part 20. Unlawful Tattooing or Body Piercing of a Minor**

16476 **76-9-2001 . Definitions.**

16477 As used in this part:

16478 (1) "Body piercing" means the creation of an opening in the body, excluding the ear, for the

16479 purpose of inserting jewelry or other decoration.

16480 (2) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal
16481 guardian during the performance of tattooing or body piercing upon the minor after the
16482 parent or legal guardian has provided:

16483 (a) reasonable proof of personal identity and familial relationship; and

16484 (b) written permission signed by the parent or legal guardian authorizing the
16485 performance of tattooing or body piercing upon the minor.

16486 (3) "Minor" means a person younger than 18 years old who:

16487 (a) is not married; and

16488 (b) has not been declared emancipated by a court of law.

16489 (4) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment
16490 under the skin or by producing scars.

16491 Section 339. Section **76-9-2002**, which is renumbered from Section 76-10-2201 is renumbered
16492 and amended to read:

16493 **[76-10-2201]76-9-2002 . Unlawful tattooing of a minor.**

16494 [(1) ~~As used in this section:~~]

16495 [(a) ~~"Body piercing" means the creation of an opening in the body, excluding the ear, for~~
16496 ~~the purpose of inserting jewelry or other decoration.]~~

16497 [(b) ~~"Consent of a minor's parent or legal guardian" means the presence of a parent or legal~~
16498 ~~guardian during the performance of body piercing or tattooing upon the minor after the~~
16499 ~~parent or legal guardian has provided:]~~

16500 [(i) ~~reasonable proof of personal identity and familial relationship; and]~~

16501 [(ii) ~~written permission signed by the parent or legal guardian authorizing the performance~~
16502 ~~of body piercing or tattooing upon the minor.]~~

16503 [(e) ~~"Minor" means a person younger than 18 years of age who:]~~

16504 [(i) ~~is not married; and]~~

16505 [(ii) ~~has not been declared emancipated by a court of law.]~~

16506 [(d) ~~"Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment~~
16507 ~~under the skin or by producing scars.]~~

16508 [(2) ~~A person is guilty of unlawful body piercing of a minor if the person performs or~~
16509 ~~offers to perform a body piercing:]~~

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- 16510 ~~[(a) upon a minor;]~~
16511 ~~[(b) without receiving the consent of the minor's parent or legal guardian; and]~~
16512 ~~[(c) for remuneration or in the course of a business or profession.]~~
16513 ~~[(3)]~~ (1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.
16514 (2) [A person is guilty of] Except as provided in Subsection (5), an actor commits unlawful
16515 tattooing of a minor if the [person] actor performs or offers to perform a tattooing:
16516 (a) upon a minor;
16517 (b) without receiving the consent of the minor's parent or legal guardian; and
16518 (c) for remuneration or in the course of a business or profession.
16519 (3) A violation of Subsection (2) is a class B misdemeanor.
16520 (4) The owner or operator of a business in which a violation of Subsection (2) occurs is
16521 subject to a civil penalty of \$1,000 for each violation.
16522 ~~[(4)]~~ (5) [A person] An actor is not guilty of violating Subsection (2) [or (3),] if the [person]
16523 actor:
16524 (a) has no actual knowledge of the minor's age; and
16525 (b) reviews, photocopies, and retains the photocopy of an apparently valid driver license
16526 or other government-issued picture identification for the minor that expressly
16527 purports that the minor is 18 years ~~[of age]~~ old or older before the [person] actor
16528 performs the ~~[body piercing or]~~ tattooing.
16529 ~~[(5)(a) A person who violates Subsection (2) or (3) is guilty of a class B misdemeanor.]~~
16530 ~~[(b) The owner or operator of a business in which a violation of Subsection (2) or (3)~~
16531 ~~occurs is subject to a civil penalty of \$1,000 for each violation.]~~
16532 Section 340. Section **76-9-2003** is enacted to read:
16533 **76-9-2003 . Unlawful body piercing of a minor.**
16534 (1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.
16535 (2) Except as provided in Subsection (5), an actor commits unlawful body piercing of a
16536 minor if the actor performs or offers to perform a body piercing:
16537 (a) upon a minor;
16538 (b) without receiving the consent of the minor's parent or legal guardian; and
16539 (c) for remuneration or in the course of a business or profession.
16540 (3) A violation of Subsection (2) is a class B misdemeanor.

- 16541 (4) The owner or operator of a business in which a violation of Subsection (2) occurs is
16542 subject to a civil penalty of \$1,000 for each violation.
- 16543 (5) An actor is not guilty of violating Subsection (2) if the actor:
- 16544 (a) has no actual knowledge of the minor's age; and
- 16545 (b) reviews, photocopies, and retains the photocopy of an apparently valid driver license
16546 or other government-issued picture identification for the minor that expressly
16547 purports that the minor is 18 years old or older before the actor performs the body
16548 piercing.

16549 Section 341. Section **76-11-101**, which is renumbered from Section 76-10-501 is renumbered
16550 and amended to read:

16551 **CHAPTER 11. WEAPONS**

16552 **Part 1. General Provisions**

16553 **~~[76-10-501]~~ 76-11-101 . Definitions.**

16554 As used in this ~~[part]~~ chapter:

16555 (1)(a) "Antique firearm" means:

16556 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or
16557 similar type of ignition system, manufactured in or before 1898;

16558 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the
16559 replica:

16560 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
16561 ammunition; or

16562 (B) uses rimfire or centerfire fixed ammunition which is:

16563 (I) no longer manufactured in the United States; and

16564 (II) is not readily available in ordinary channels of commercial trade; or

16565 (iii)(A) that is a muzzle loading rifle, shotgun, or pistol; and

16566 (B) is designed to use black powder, or a black powder substitute, and cannot use
16567 fixed ammunition.

16568 (b) "Antique firearm" does not include:

16569 (i) a weapon that incorporates a firearm frame or receiver;

16570 (ii) a firearm that is converted into a muzzle loading weapon; or

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- 16571 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition
16572 by replacing the:
16573 (A) barrel;
16574 (B) bolt;
16575 (C) breechblock; or
16576 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).
- 16577 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
16578 within the Department of Public Safety.
- 16579 (3)(a) "Concealed firearm" means a firearm that is:
16580 (i) covered, hidden, or secreted in a manner that the public would not be aware of its
16581 presence; and
16582 (ii) readily accessible for immediate use.
- 16583 (b) A firearm that is unloaded and securely encased is not a concealed firearm for the
16584 purposes of this part.
- 16585 [~~(4) "Criminal history background check" means a criminal background check conducted
16586 by a licensed firearms dealer on every purchaser of a handgun, except a Federal
16587 Firearms Licensee, through the bureau or the local law enforcement agency where the
16588 firearms dealer conducts business.]~~
- 16589 [(5)] (4) "Curio or relic firearm" means a firearm that:
16590 (a) is of special interest to a collector because of a quality that is not associated with
16591 firearms intended for:
16592 (i) sporting use;
16593 (ii) use as an offensive weapon; or
16594 (iii) use as a defensive weapon;
16595 (b)(i) was manufactured at least 50 years before the current date; and
16596 (ii) is not a replica of a firearm described in Subsection [~~(5)(b)(i)] (4)(b)(i);~~
16597 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
16598 firearms to be a curio or relic of museum interest;
16599 (d) derives a substantial part of its monetary value:
16600 (i) from the fact that the firearm is:
16601 (A) novel;

- 16602 (B) rare; or
16603 (C) bizarre; or
16604 (ii) because of the firearm's association with an historical:
16605 (A) figure;
16606 (B) period; or
16607 (C) event; and
16608 (e) has been designated as a curio or relic firearm by the director of the United States
16609 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R.
16610 Sec. 478.11.
16611 ~~[(6)]~~ (5)(a) "Dangerous weapon" means:
16612 (i) a firearm; or
16613 (ii) an object that in the manner of its use or intended use is capable of causing death
16614 or serious bodily injury.
16615 (b) The following factors are used in determining whether any object, other than a
16616 firearm, is a dangerous weapon:
16617 (i) the location and circumstances in which the object was used or possessed;
16618 (ii) the primary purpose for which the object was made;
16619 (iii) the character of the wound, if any, produced by the object's unlawful use;
16620 (iv) the manner in which the object was unlawfully used;
16621 (v) whether the manner in which the object is used or possessed constitutes a
16622 potential imminent threat to public safety; and
16623 (vi) the lawful purposes for which the object may be used.
16624 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
16625 as defined by Section ~~[76-10-306]~~ 76-15-210.
16626 ~~[(7)(a) "Dating relationship" means a romantic or intimate relationship between~~
16627 ~~individuals.]~~
16628 ~~[(b) "Dating relationship" does not include a casual acquaintanceship or ordinary~~
16629 ~~fraternization in a business or social context.]~~
16630 ~~[(8) "Dealer" means a person who is:]~~
16631 ~~[(a) licensed under 18 U.S.C. Sec. 923; and]~~
16632 ~~[(b) engaged in the business of selling, leasing, or otherwise transferring a handgun,~~

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- 16633 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.]
- 16634 [(9) "~~Domestic violence~~" means the same as that term is defined in Section 77-36-1.]
- 16635 [(10) "~~Enter~~" means intrusion of the entire body.]
- 16636 [(11) "~~Federal Firearms Licensee~~" means a person who:]
- 16637 [(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and]
- 16638 [(b) is engaged in the activities authorized by the specific category of license held.]
- 16639 [(12) (6)(a)] "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle
- 16640 or short barreled rifle, or a device that could be used as a dangerous weapon from
- 16641 which is expelled a projectile by action of an explosive.
- 16642 [(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an
- 16643 antique firearm.]
- 16644 [(13) "~~Firearms transaction record form~~" means a form created by the bureau to be
- 16645 completed by a person purchasing, selling, or transferring a handgun from a dealer in the
- 16646 state.]
- 16647 [(14) "~~Fully automatic weapon~~" means a firearm which fires, is designed to fire, or can be
- 16648 readily restored to fire, automatically more than one shot without manual reloading by a
- 16649 single function of the trigger.]
- 16650 [(15) (7)(a)] "Handgun" means a pistol, revolver, or other firearm of any description,
- 16651 loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the
- 16652 length of which, not including any revolving, detachable, or magazine breech, does
- 16653 not exceed 12 inches.
- 16654 [(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol
- 16655 or revolver" do not include an antique firearm.]
- 16656 [(16) "~~House of worship~~" means a church, temple, synagogue, mosque, or other building
- 16657 set apart primarily for the purpose of worship in which religious services are held and
- 16658 the main body of which is kept for that use and not put to any other use inconsistent with
- 16659 its primary purpose.]
- 16660 [(17) "~~Machinegun firearm attachment~~" means any part or combination of parts added to a
- 16661 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.]
- 16662 [(18) (8)] "Prohibited area" means a place where it is unlawful to discharge a firearm.
- 16663 [(19) "~~Readily accessible for immediate use~~" means that a firearm or other dangerous

16664 weapon is carried on the person or within such close proximity and in such a manner
16665 that it can be retrieved and used as readily as if carried on the person.]

16666 [(20)] (9) "Residence" means an improvement to real property used or occupied as a
16667 primary or secondary residence.

16668 [(21) "Securely encased" means not readily accessible for immediate use, such as held in a
16669 gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
16670 storage area of a motor vehicle, not including a glove box or console box.]

16671 (10)(a) Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16
16672 inches in length.

16673 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,
16674 modification, or otherwise, if the weapon as modified has an overall length of fewer
16675 than 26 inches.

16676 [(22)] (11)(a) "Short barreled shotgun" [~~or "short barreled rifle"~~] means a shotgun [
16677 having] that has a barrel or barrels of fewer than 18 inches in length [~~, or in the case of~~
16678 a rifle, having a barrel or barrels of fewer than 16 inches in length,] .

16679 (b) [~~or~~] "Short barreled shotgun" includes a dangerous weapon made from a [~~rifle or~~]
16680 shotgun by alteration, modification, or otherwise, if the weapon as modified has an
16681 overall length of fewer than 26 inches.

16682 [(23)] (12) "Shotgun" means a smooth bore firearm designed to fire cartridges containing
16683 pellets or a single slug.

16684 [(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the
16685 shoulder.]

16686 [(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.]

16687 [(26)] (13) "Slug" means a single projectile discharged from a shotgun shell.

16688 [(27) "State entity" means a department, commission, board, council, agency, institution,
16689 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
16690 bureau, panel, or other administrative unit of the state.]

16691 [(28)] (14) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

16692 Section 342. Section **76-11-102**, which is renumbered from Section 76-10-502 is renumbered
16693 and amended to read:

16694 **[76-10-502]76-11-102 . When a weapon is deemed to be loaded.**

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- 16695 (1) For the purpose of this chapter, [~~any pistol, revolver, shotgun, rifle, or other weapon~~
16696 ~~described in this part shall be deemed to be~~] a firearm is considered to be loaded when
16697 there is an unexpended cartridge, shell, or projectile in the firing position.
- 16698 (2) [~~Pistols and revolvers shall also be deemed to be~~] Handguns are also considered to be
16699 loaded when an unexpended cartridge, shell, or projectile is in a position whereby the
16700 manual operation of any mechanism once would cause the unexpended cartridge, shell,
16701 or projectile to be fired.
- 16702 (3) A muzzle loading firearm [~~shall be deemed to be~~] is considered loaded when [it] the
16703 muzzle loading firearm is capped or primed and has a powder charge and ball or shot in
16704 the barrel or cylinders.

16705 Section 343. Section **76-11-201** is enacted to read:

16706 **Part 2. General Weapons Violations**

16707 **76-11-201 . Definitions.**

16708 As used in this part:

- 16709 (1) "Enter" means intrusion of the entire body.
- 16710 (2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be
16711 readily restored to fire, automatically more than one shot without manual reloading by a
16712 single function of the trigger.
- 16713 (3) "House of worship" means a church, temple, synagogue, mosque, or other building set
16714 apart primarily for the purpose of worship in which religious services are held and the
16715 main body of which is kept for that use and not put to any other use inconsistent with its
16716 primary purpose.
- 16717 (4) "Machinegun firearm attachment" means any part or combination of parts added to a
16718 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.
- 16719 (5) "Readily accessible for immediate use" means that a firearm or other dangerous weapon
16720 is carried on the person or within such close proximity and in such a manner that it can
16721 be retrieved and used as readily as if carried on the person.
- 16722 (6) "Securely encased" means not readily accessible for immediate use, such as held in a
16723 gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
16724 storage area of a motor vehicle, not including a glove box or console box.
- 16725 Section 344. Section **76-11-202**, which is renumbered from Section 76-10-504 is renumbered

16726 and amended to read:

16727 **[76-10-504]76-11-202 . Carrying a concealed firearm.**

16728 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

16729 ~~[(1)] (2) [Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2);~~

16730 ~~(3), and (4), a person who]~~ An actor commits carrying a concealed firearm if the actor:

16731 (a)(i) carries a concealed loaded or unloaded firearm[~~as defined in Section~~

16732 76-10-501, including an unloaded firearm on his or her] on the actor's person; or

16733 (ii) ~~[one]~~ has a loaded or unloaded firearm that is readily accessible for immediate

16734 use which is not securely encased[~~as defined in this part,~~] ; and

16735 (b) is in or on a place other than the ~~[person's]~~ actor's residence, property, a vehicle in the [

16736 person's] actor's lawful possession, or a vehicle, with the consent of the individual

16737 who is lawfully in possession of the vehicle, or business under the ~~[person's]~~ actor's

16738 control[~~is guilty of a class B misdemeanor~~].

16739 ~~[(2)] (3)(a) Except as provided in Subsections (3)(b) and (c), a violation of Subsection (2)~~

16740 is a class B misdemeanor.

16741 (b) ~~[A person who carries a]~~ Except as provided in Subsection (3)(c), a violation of

16742 Subsection (2) is a Class A misdemeanor if the concealed firearm ~~[that]is[~~a~~] loaded [~~

16743 firearm in] at the time of the violation[~~of Subsection (1) is guilty of a class A~~

16744 misdemeanor].

16745 ~~[(3)] (c) ~~[A person who carries concealed an]~~ A violation of Subsection (2) is a second~~

16746 degree felony if:

16747 (i) the concealed firearm is an unlawfully possessed short barreled shotgun or a short

16748 barreled rifle[~~is guilty of a second degree felony.~~] ; or

16749 ~~[(4)] (ii) ~~[If the concealed]~~ the firearm that is concealed is used in the commission of a~~

16750 violent felony [as defined in Section 76-3-203.5], and the ~~[person]~~ actor is a party

16751 to the offense[~~, the person is guilty of a second degree felony~~].

16752 ~~[(5)] (4) ~~[Nothing in Subsection (1) or (2) prohibits]~~ This section does not:~~

16753 (a) ~~[a person]~~ prohibit an individual engaged in the lawful taking of protected or

16754 unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a

16755 concealed firearm [as long as] if the taking of wildlife does not occur:

16756 ~~[(a)] (i)~~ within the limits of a municipality in violation of that municipality's

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16757 ordinances; or

16758 ~~[(b)]~~ (ii) upon the highways of the state as defined in Section 41-6a-102[-] ; or

16759 (b) apply to an individual who is a restricted person under Section 76-11-302 and may

16760 not possess a firearm in any manner or location and is subject to the penalties

16761 described in Part 3, Persons Restricted Regarding Dangerous Weapons.

16762 Section 345. Section **76-11-203**, which is renumbered from Section 76-10-505 is renumbered

16763 and amended to read:

16764 **[76-10-505]76-11-203 . Carrying a loaded firearm in a vehicle or on a street.**

16765 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

16766 ~~[(1)]~~ (2) ~~[Unless otherwise authorized by law, a person may not carry a loaded firearm]~~ An

16767 actor commits carrying a loaded firearm in a vehicle or on a street if the actor carries a

16768 loaded firearm:

16769 (a) in or on a vehicle, unless:

16770 (i) the vehicle is in the person's lawful possession; or

16771 (ii) the ~~[person]~~ actor is carrying the loaded firearm in a vehicle with the consent of

16772 the ~~[person]~~ individual lawfully in possession of the vehicle;

16773 (b) on a public street; or

16774 (c) in a posted prohibited area.

16775 (3) A violation of Subsection (2) is a class B misdemeanor.

16776 ~~[(2)]~~ (4) Subsection ~~[(1)(a)]~~ (2)(a) does not apply to a minor under 18 years of age, since a

16777 minor under 18 years of age may not carry a loaded firearm in or on a vehicle.

16778 ~~[(3)]~~ (5) Notwithstanding Subsections ~~[(1)(a)(i) and (ii)]~~ (2)(a)(i) and (ii), and Subsection [

16779 ~~76-10-523(5), a person]~~ 53-5a-108(5), an actor may not possess a loaded rifle, shotgun,

16780 or muzzle-loading rifle in a vehicle.

16781 ~~[(4) A violation of this section is a class B misdemeanor.]~~

16782 Section 346. Section **76-11-204**, which is renumbered from Section 76-10-505.5 is renumbered

16783 and amended to read:

16784 **[76-10-505.5]76-11-204 . Possession of a dangerous weapon on or about school premises.**

16785 (1)(a) As used in this section, "on or about school premises" means:

16786 ~~[(a)]~~ (i)~~[(i)]~~ (A) in a public or private elementary or secondary school; or

16787 ~~[(ii)]~~ (B) on the grounds of any of those schools;

16788 ~~[(b)]~~ ~~(ii)~~~~(i)~~ (A) in a public or private institution of higher education; or
16789 ~~[(ii)]~~ (B) on the grounds of a public or private institution of higher education; or
16790 ~~[(e)]~~ ~~(iii)~~~~(i)~~ (A) inside the building where a preschool or child care is being held,
16791 if the entire building is being used for the operation of the preschool or child
16792 care; or
16793 ~~[(ii)]~~ (B) if only a portion of a building is being used to operate a preschool or
16794 child care, in that room or rooms where the preschool or child care operation is
16795 being held.

16796 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
16797 section.

16798 (2) An actor ~~[who]~~ commits possession of a dangerous weapon on or about school premises
16799 if the actor:

16800 (a) [-]is 18 years old or older; and

16801 (b) ~~[- may not possess]~~ possesses a dangerous weapon~~[- firearm, or short barreled shotgun]~~
16802 at a place that the actor knows, or has reasonable cause to believe, is on or about
16803 school premises.

16804 (3)(a) ~~[Possession of a dangerous weapon on or about school premises]~~ Except as
16805 provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

16806 (b) ~~[Possession of a firearm or short barreled shotgun on or about school premises]~~ A
16807 violation of Subsection (2) is a class A misdemeanor if the dangerous weapon
16808 possessed by the actor is a firearm.

16809 (4) This section does not apply if:

16810 (a) the actor is authorized to possess a firearm as described in Section 53-5-704,
16811 53-5-705, ~~[76-10-511]~~ 53-5a-102.3, or ~~[76-10-523]~~ 53-5a-108, or as otherwise
16812 authorized by law;

16813 (b) the actor is authorized to possess a firearm as described in Section 53-5-704.5, unless
16814 the actor is in a location where the actor is prohibited from carrying a firearm under
16815 Subsection 53-5-710(2);

16816 (c) the possession is approved by the responsible school administrator;

16817 (d) the item is present or to be used in connection with a lawful, approved activity and is
16818 in the possession or under the control of the actor responsible for the item's

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- 16819 possession or use;
- 16820 (e) the actor is an armed school security guard as described in Section 53G-8-704; or
- 16821 (f) the possession is:
- 16822 (i) at the actor's place of residence or on the actor's property; or
- 16823 (ii) in any vehicle lawfully under the actor's control, other than a vehicle owned by
- 16824 the school or used by the school to transport students.
- 16825 (5) This section does not[-]:
- 16826 (a) prohibit prosecution of a more serious weapons offense that may occur on or about
- 16827 school premises;
- 16828 (b) prevent an actor from securely storing a firearm on the grounds of a school if the
- 16829 actor:
- 16830 (i) participates in:
- 16831 (A) the school guardian program created in Section 53-22-105; [~~and~~] or
- 16832 (B) the Educator-Protector Program created in Section 53-22-107; and
- 16833 (ii) complies with the requirements for securely storing the firearm described in
- 16834 Subsection 53-22-107(5)(a); or
- 16835 (c) prohibit the prosecution of possession of a dangerous weapon by a minor, as
- 16836 described in Section [~~76-10-509.4~~] 76-11-209, that occurs on or about school
- 16837 premises.
- 16838 Section 347. Section **76-11-205**, which is renumbered from Section 76-10-506 is renumbered
- 16839 and amended to read:
- 16840 **[~~76-10-506~~] 76-11-205 . Threatening with or using a dangerous weapon in a fight or a**
- 16841 **quarrel.**
- 16841 (1)(a) As used in this section:
- 16842 [~~(a)~~] (i) "Dangerous weapon" means an item that in the manner of its use or intended
- 16843 use is capable of causing death or serious bodily injury. The following factors
- 16844 shall be used in determining whether an item, object, or thing is a dangerous
- 16845 weapon:
- 16846 [(i)] (A) the character of the instrument, object, or thing;
- 16847 [(ii)] (B) the character of the wound produced, if any; and
- 16848 [(iii)] (C) the manner in which the instrument, object, or thing was exhibited or

16849 used.

16850 [(b)] (ii) "Threatening manner" does not include:

16851 [(i)] (A) the possession of a dangerous weapon, whether visible or concealed,

16852 without additional behavior which is threatening; or

16853 [(ii)] (B) informing another of the actor's possession of a deadly weapon to prevent

16854 what the actor reasonably perceives as a possible use of unlawful force by the

16855 other and the actor is not engaged in any activity described in Subsection

16856 76-2-402(3)(a).

16857 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this

16858 section.

16859 (2) [~~Except as otherwise provided in Section 76-2-402 and for an individual described in~~

16860 ~~Section 76-10-503, an individual who, in the presence of two or more individuals, and~~

16861 ~~not amounting to a violation of Section 76-5-103,]~~ An actor commits threatening with or

16862 using a dangerous weapon in a fight or a quarrel if the actor:

16863 (a) draws or exhibits a dangerous weapon in an angry and threatening manner; or

16864 (b) [-]unlawfully uses a dangerous weapon in a fight or quarrel[- is guilty of a class A

16865 misdemeanor].

16866 (3) A violation of Subsection (2) is a class A misdemeanor.

16867 (4) This section does not apply to:

16868 (a) [-]an individual who, reasonably believing the action to be necessary in compliance

16869 with Section 76-2-402, with purpose to prevent another's use of unlawful force:

16870 [(a)] (i) threatens the use of a dangerous weapon; or

16871 [(b)] (ii) draws or exhibits a dangerous weapon[-];

16872 [(4) ~~This section does not apply to]~~

16873 (b) [-]an individual listed in Subsections [76-10-523(1)(a) through (f)] 53-5a-108(1)(a)

16874 through (f) in performance of the individual's duties; or

16875 (c) an individual who is a restricted person under Section 76-11-302 and may not

16876 possess a firearm in any manner or location and is subject to the penalties described

16877 in Part 3, Persons Restricted Regarding Dangerous Weapons.

16878 Section 348. Section **76-11-206**, which is renumbered from Section 76-10-507 is renumbered

16879 and amended to read:

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16880 ~~[76-10-507]~~**76-11-206 . Possession of a dangerous weapon with criminal intent.**

16881 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

16882 (2) ~~[Every person having upon his person any-]~~ An actor commits possession of a
16883 dangerous weapon with criminal intent if the actor possesses a dangerous weapon with
16884 the intent to use [it] the dangerous weapon to commit a criminal offense.

16885 (3) A violation of Subsection (2) is~~[guilty of]~~ a class A misdemeanor.

16886 Section 349. Section **76-11-207**, which is renumbered from Section 76-10-508 is renumbered
16887 and amended to read:

16888 ~~[76-10-508]~~**76-11-207 . Improper discharging of a dangerous weapon.**

16889 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

16890 (2) An actor commits improper discharging of a dangerous weapon if the actor discharges a
16891 dangerous weapon:

16892 ~~[(a) An individual may not discharge a dangerous weapon or firearm:]~~

16893 ~~[(i)]~~ (a) from ~~[an automobile or other]~~ a vehicle;

16894 ~~[(ii)]~~ (b) from, upon, or across a highway;

16895 ~~[(iii)]~~ (c) at a road sign placed ~~[upon a highway of the]~~ on a state highway;

16896 ~~[(iv)]~~ (d) at communications equipment or property of public utilities including facilities,
16897 lines, poles, or devices of transmission or distribution;

16898 ~~[(v)]~~ (e) at railroad equipment or facilities including a sign or signal;

16899 ~~[(vi)]~~ (f) within a Utah State Park building, designated camp or picnic sites, overlooks,
16900 golf courses, boat ramps, and developed beaches; or

16901 ~~[(vii)]~~ (g) without written permission to discharge the dangerous weapon from the owner
16902 or person in charge of the property within 600 feet of:

16903 ~~[(A)]~~ (i) a house, dwelling, or~~[-any-]~~other building; or

16904 ~~[(B)]~~ (ii) ~~[any]~~ a structure in which a domestic animal is kept or fed, including a barn,
16905 poultry yard, corral, feeding pen, or stockyard.

16906 ~~[(b) It is a defense to any charge for violating this section that the individual being~~
16907 ~~accused had actual permission of the owner or person in charge of the property at the~~
16908 ~~time in question.]~~

16909 ~~[(2)]~~ (3) A violation of ~~[any provision-]~~of Subsection ~~[(1)]~~ (2) is a class B misdemeanor.

16910 ~~[(3)]~~ (4) In addition to any other penalties, the court shall:

- 16911 (a) notify the Driver License Division of the conviction for purposes of any revocation,
16912 denial, suspension, or disqualification of a driver license under Subsection
16913 53-3-220(1)(a)(xi); and
16914 (b) specify in court at the time of sentencing the length of the revocation under
16915 Subsection 53-3-225(1)(c).

16916 [(4)] (5) This section does not apply to an [individual] actor who:

- 16917 (a) discharges a firearm [~~when that individual is~~] in the lawful defense of [self] the actor
16918 or [others] other individuals;
16919 (b) is performing official duties as provided in Section 23A-5-202 and Subsections [
16920 76-10-523(1)(a)] 53-5a-108(1)(a) through (f) and as otherwise provided by law; or
16921 (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:
16922 (i) the discharge occurs at a firing range or training ground;
16923 (ii) at no time after the discharge does the projectile that is discharged cross over or
16924 stop at a location other than within the boundaries of the firing range or training
16925 ground described in Subsection [(4)(e)(i)]; (5)(c)(i);
16926 (iii) the discharge is made as practice or training for a lawful purpose;
16927 (iv) the discharge and the location, time, and manner of the discharge are approved
16928 by the owner or operator of the firing range or training ground before the
16929 discharge; and
16930 (v) the discharge is not made in violation of Subsection [(4)] (2).

16931 (d) It is a defense to a charge for violating this section that the actor had actual
16932 permission of the person in charge of the property at the time the actor discharged the
16933 dangerous weapon as described in Subsection (2).

16934 Section 350. Section **76-11-208**, which is renumbered from Section 76-10-508.1 is renumbered
16935 and amended to read:

16936 **[76-10-508.1]76-11-208 . Felony discharge of a firearm.**

16937 (1)(a) As used in this section, "habitable structure" means the same as that term is
16938 defined in Section 76-6-101.

16939 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
16940 section.

16941 [(1)] (2) [~~Except as provided under Subsection (2) or (3), an individual who discharges a~~

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- 16942 firearm is guilty of a third degree felony punishable by imprisonment for a term of not
16943 less than three years nor more than five years.] An actor commits felony discharge of a
16944 firearm if:
- 16945 (a) the actor discharges a firearm in the direction of [~~one or more individuals~~] an
16946 individual, knowing or having reason to believe that [~~any~~] an individual may be
16947 endangered by the discharge of the firearm;
- 16948 (b) the actor, with intent to intimidate or harass another individual or with intent to
16949 damage a habitable structure[~~as defined in Section 76-6-101~~], discharges a firearm in
16950 the direction of [~~any~~] an individual or habitable structure; or
- 16951 (c) the actor, with intent to intimidate or harass another individual, discharges a firearm
16952 in the direction of [~~any~~] a vehicle.
- 16953 [~~(2) A violation of Subsection (1) that causes bodily injury to any individual is a second~~
16954 ~~degree felony punishable by imprisonment for a term of not less than three years nor~~
16955 ~~more than 15 years.]~~
- 16956 [~~(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a~~
16957 ~~first degree felony.]~~
- 16958 (3)(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is
16959 a third degree felony punishable by a term of imprisonment of not less than three
16960 years nor more than five years.
- 16961 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes
16962 bodily injury to any individual is a second degree felony punishable by imprisonment
16963 for a term of not less than three years nor more than 15 years.
- 16964 (c) A violation of Subsection (2) that causes serious bodily injury to an individual is a
16965 first degree felony.
- 16966 (4) In addition to any other penalties for a violation of this section, the court shall:
- 16967 (a) notify the Driver License Division of the conviction for purposes of any revocation,
16968 denial, suspension, or disqualification of a driver license under Subsection
16969 53-3-220(1)(a)(xi); and
- 16970 (b) specify in court at the time of sentencing the length of the revocation under
16971 Subsection 53-3-225(1)(c).
- 16972 (5) This section does not apply to an [~~individual~~] actor:

- 16973 (a) who discharges a firearm [~~when that individual is~~] in the lawful defense of [self] the
16974 actor or [others] another individual;
- 16975 (b) who is performing official duties as provided in Section 23A-5-202 or Subsections [
16976 ~~76-10-523(1)(a) through (f)~~] 53-5a-108(1)(a) through (f) or as otherwise authorized
16977 by law; or
- 16978 (c) who discharges a dangerous weapon or firearm from an automobile or other vehicle,
16979 if:
- 16980 (i) the discharge occurs at a firing range or training ground;
- 16981 (ii) at no time after the discharge does the projectile that is discharged cross over or
16982 stop at a location other than within the boundaries of the firing range or training
16983 ground described in Subsection (5)(c)(i);
- 16984 (iii) the discharge is made as practice or training for a lawful purpose;
- 16985 (iv) the discharge and the location, time, and manner of the discharge are approved
16986 by the owner or operator of the firing range or training ground before the
16987 discharge; and
- 16988 (v) the discharge is not made in violation of Subsection [~~(4)~~] (2).

16989 Section 351. Section **76-11-209**, which is renumbered from Section 76-10-509.4 is renumbered
16990 and amended to read:

16991 **~~76-10-509.4~~76-11-209 . Possession of a dangerous weapon by a minor.**

16992 (1)(a) As used in this section, "responsible adult" means an individual:

16993 [~~(a)~~] (i) who is 18 years old or older; and

16994 [~~(b)~~] (ii) who may lawfully possess a dangerous weapon.

16995 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
16996 section.

16997 (2) An actor [~~who is under 18 years old may not possess a dangerous weapon.~~] commits
16998 possession of a dangerous weapon by a minor if the actor:

16999 (a) is under 18 years old; and

17000 (b) possesses a dangerous weapon.

17001 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:

17002 (i) a class B misdemeanor for a first offense; and

17003 (ii) a class A misdemeanor for each subsequent offense.

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- 17004 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:
17005 (i) a handgun;
17006 (ii) a short barreled rifle;
17007 (iii) a short barreled shotgun;
17008 (iv) a fully automatic weapon; or
17009 (v) a machinegun firearm attachment.
- 17010 (4) For an actor who is younger than 14 years old, this section does not apply if the actor:
17011 (a) possesses a dangerous weapon;
17012 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
17013 (c) is accompanied by the actor's parent or guardian, or a responsible adult, while the
17014 actor has the dangerous weapon in the actor's possession; and
17015 (d) does not use the dangerous weapon in the commission of a crime.
- 17016 (5) For an actor who is 14 years old or older but younger than 18 years old, this section
17017 does not apply if the actor:
17018 (a) possesses a dangerous weapon;
17019 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
17020 and
17021 (c) does not use the dangerous weapon in the commission of a crime.
- 17022 (6) This section does not apply to the following minors who are otherwise complying with
17023 Subsection (4) or (5):
17024 (a) a minor who is a patron at an amusement park, pier, or similar location and is
17025 possessing a firearm to participate in lawfully operated target concessions if the
17026 firearm to be used is firmly chained or affixed to the counters;
17027 (b) a minor attending a hunter's safety course or a firearms safety course and possessing
17028 a weapon as part of the course;
17029 (c) a minor using a firearm at an established range or other area where the discharge of a
17030 firearm is not prohibited by state or local law;
17031 (d) a minor participating in an organized competition involving the use of a firearm, or
17032 practicing for the competition;
17033 (e) a minor who is on real property with the permission of the owner, licensee, or lessee
17034 of the property and who has the permission of a parent or legal guardian or the

- 17035 owner, licensee, or lessee to possess a firearm not otherwise in violation of law;
17036 (f) a minor who has a valid hunting license and is possessing a firearm to lawfully
17037 engage in hunting; or
17038 (g) a minor traveling to or from an activity described in Subsection (6)(a) through (f)
17039 with an unloaded firearm in the minor's possession.

17040 Section 352. Section **76-11-210**, which is renumbered from Section 76-10-509.5 is renumbered
17041 and amended to read:

17042 ~~[76-10-509.5]~~ **76-11-210 . Providing an illegal weapon to a minor.**

17043 [(1) Any person who provides a handgun to a minor when the possession of the handgun
17044 by the minor is a violation of Section 76-10-509.4 is guilty of:]

17045 [(a) a class B misdemeanor upon the first offense; and]

17046 [(b) a class A misdemeanor for each subsequent offense.]

17047 [(2) Any person who transfers in violation of applicable state or federal law a short
17048 barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a
17049 third degree felony.]

17050 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

17051 (2) An actor commits providing an illegal weapon to a minor if:

17052 (a) the actor provides a handgun to a minor and the minor's possession of the handgun
17053 would be a violation of Section 76-11-209, Possession of a dangerous weapon by a
17054 minor; or

17055 (b) the actor transfers or provides, in violation of applicable state or federal law, a short
17056 barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.

17057 (3)(a) A violation of Subsection (2)(a) is:

17058 (i) a class B misdemeanor upon the first offense; and

17059 (ii) a class A misdemeanor for each subsequent offense.

17060 (b) A violation of Subsection (2)(b) is a third degree felony.

17061 Section 353. Section **76-11-211**, which is renumbered from Section 76-10-509.6 is renumbered
17062 and amended to read:

17063 ~~[76-10-509.6]~~ **76-11-211 . Parent or guardian providing a firearm to a violent minor.**

17064 [(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or
17065 permit the possession of a firearm by, any minor who has been convicted of a violent

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17066 felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in
17067 juvenile court for an offense which would constitute a violent felony if the minor were
17068 an adult.]

17069 [(2) Any person who violates this section is guilty of:]

17070 [(a) a class A misdemeanor upon the first offense; and]

17071 [(b) a third degree felony for each subsequent offense.]

17072 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

17073 (2) An actor commits the offense of a parent or guardian providing a firearm to a violent
17074 minor if:

17075 (a) the actor intentionally or knowingly provides a firearm to, or permits the possession
17076 of a firearm by, a minor;

17077 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian
17078 of the minor; and

17079 (c) the minor has previously been:

17080 (i) convicted of a violent felony; or

17081 (ii) adjudicated in juvenile court for an offense which would constitute a violent
17082 felony if the minor were an adult.

17083 (3) A violation of Subsection (2) is:

17084 (a) a class A misdemeanor upon the first offense; and

17085 (b) a third degree felony for each subsequent offense.

17086 Section 354. Section **76-11-212**, which is renumbered from Section 76-10-509.7 is renumbered
17087 and amended to read:

17088 **[76-10-509.7] 76-11-212 . Parent or guardian knowing a minor is in possession of a**
dangerous

17089 **weapon.**

17090 [Any parent or guardian of a minor who knows that the minor is in
17091 possession of a dangerous weapon in violation of Section 76-10-509.4 and fails to
17092 make reasonable efforts to remove the dangerous weapon from the minor's
17093 possession is guilty of a class B misdemeanor.]

17094 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

17095 (2) An actor commits the offense of a parent or guardian knowing a minor is in possession

17096 of a dangerous weapon if:

17097 (a) the actor knows a minor is in possession of a deadly weapon in violation of Section

17098 76-11-209, Possession of a dangerous weapon by a minor;

17099 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian

17100 of the minor; and

17101 (c) the actor fails to make reasonable efforts to remove the dangerous weapon from the

17102 minor's possession.

17103 (3) A violation of Subsection (2) is a class B misdemeanor.

17104 Section 355. Section **76-11-213**, which is renumbered from Section 76-10-509.9 is renumbered

17105 and amended to read:

17106 **~~[76-10-509.9]~~76-11-213 . Selling a firearm to a minor.**

17107 [(1) A person may not sell any firearm to a minor under 18 years of age unless the minor is

17108 accompanied by a parent or guardian.]

17109 [(2) Any person who violates this section is guilty of a third degree felony.]

17110 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

17111 (2) An actor commits selling a firearm to a minor if:

17112 (a) the actor sells a firearm to a minor; and

17113 (b) at the time the actor sells the weapon to minor, the minor is not accompanied by a

17114 parent of the minor or a legal guardian of the minor.

17115 (3) A violation of Subsection (2) is a third degree felony.

17116 Section 356. Section **76-11-214**, which is renumbered from Section 76-10-528 is renumbered

17117 and amended to read:

17118 **~~[76-10-528]~~76-11-214 . Carrying a dangerous weapon while under influence of alcohol or**

17119 **drugs.**

17120 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

17121 (2) ~~[It is a class B misdemeanor for an actor to carry]~~ An actor commits carrying a

17122 dangerous weapon while under the influence of alcohol or drugs if the actor:

17123 (a) carries a dangerous weapon; and

17124 (b) is under the influence of:

17125 [(a)] (i) alcohol as determined by the actor's blood or breath alcohol concentration in

17126 accordance with Subsections 41-6a-502(1)(a) through (c); or

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17127 [(b)] (ii) a controlled substance as defined in Section 58-37-2.

17128 [(2)] (3) A violation of Subsection (2) is a class B misdemeanor.

17129 (4) This section does not apply to:

17130 (a) an actor carrying a dangerous weapon that is either securely encased, as defined in
17131 this part, or not within such close proximity and in such a manner that [it] the
17132 dangerous weapon can be retrieved and used as readily as if carried on the person;

17133 (b) an actor who uses or threatens to use force in compliance with Section 76-2-402;

17134 (c) an actor carrying a dangerous weapon in the actor's residence or the residence of
17135 another individual with the consent of the individual who is lawfully in possession of
17136 the residence;

17137 (d) an actor under the influence of cannabis or a cannabis product, as those terms are
17138 defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis product
17139 complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
17140 Cannabis; or

17141 (e) an actor who:

17142 (i) has a valid prescription for a controlled substance;

17143 (ii) takes the controlled substance described in Subsection [(2)(e)(i)] (4)(e)(i) as
17144 prescribed; and

17145 (iii) after taking the controlled substance, the actor:

17146 (A) is not a danger to the actor or another individual; or

17147 (B) is capable of safely handling a dangerous weapon.

17148 [(3)] (5) It is not a defense to prosecution under this section that the actor:

17149 (a) is licensed in the pursuit of wildlife of any kind; or

17150 (b) has a valid permit to carry a concealed firearm.

17151 Section 357. Section **76-11-215**, which is renumbered from Section 76-10-529 is renumbered
17152 and amended to read:

17153 ~~[76-10-529]~~ **76-11-215 . Possession of a dangerous weapon in an airport secure area --**
17154 **Reporting requirements.**

17155 (1)(a) As used in this section:

17156 (i) "Airport authority" has the same meaning as defined in Section 72-10-102.

17157 (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary

- 17158 device" in Section ~~[76-10-306]~~ 76-15-210.
- 17159 (iii) "Law enforcement officer" means the same as that term is defined in Section
17160 53-13-103.
- 17161 (b) ~~[Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section]~~ Terms
17162 defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 17163 ~~[(2)(a) Within a secure area of an airport established pursuant to this section, an actor,~~
17164 ~~including an actor licensed to carry a concealed firearm under Title 53, Chapter 5, Part~~
17165 ~~7, Concealed Firearm Act, is guilty of:]~~
- 17166 ~~[(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or~~
17167 ~~other dangerous weapon;]~~
- 17168 ~~[(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal~~
17169 ~~negligence possesses a firearm or other dangerous weapon; or]~~
- 17170 ~~[(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells~~
17171 ~~an explosive, chemical, or incendiary device.]~~
- 17172 ~~[(b) Subsection (2)(a) does not apply to:]~~
- 17173 ~~[(i) individuals exempted under Section 76-10-523; and]~~
- 17174 ~~[(ii) a member of the state or federal military forces while engaged in the performance of~~
17175 ~~the member's official duties.]~~
- 17176 (2) Except as provided in Subsection (4), an actor commits possession of a dangerous
17177 weapon in an airport secure area if the actor, including an actor who has a concealed
17178 firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act:
- 17179 (a) knowingly or intentionally possesses a dangerous weapon within the secure area of
17180 an airport established under Subsection (5); or
- 17181 (b) recklessly or with criminal negligence possesses a dangerous weapon within the
17182 secure area of an airport established under Subsection (5).
- 17183 (3)(a) A violation of Subsection (2)(a) is a class A misdemeanor.
- 17184 (b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.
- 17185 (4) Subsection (2) does not apply to:
- 17186 (a) an individual exempted from certain weapons laws as described in Section
17187 53-5a-108; or
- 17188 (b) a member of the state or federal military forces while engaged in the performance of

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17189 the member's official duties.

17190 [(3)] (5)(a) An airport authority, county, municipality, or other entity regulating an
17191 airport may:

17192 [(a)] (i) establish a secure area located beyond the main area where the public
17193 generally buys tickets, checks and retrieves luggage; and

17194 [(b)] (ii) use reasonable means, including mechanical, electronic, x-ray, or another
17195 device, to detect firearms, other dangerous weapons, or explosives concealed in
17196 baggage or upon the person of an individual attempting to enter the secure area.

17197 [(4)] (b) At least one notice shall be prominently displayed at each entrance to a secure
17198 area in which a firearm, other dangerous weapon, or explosive is restricted.

17199 (c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or
17200 incendiary device within the secure area of an airport commits a violation of Section
17201 76-15-210.

17202 [(5)] (6)(a) An actor who violates Subsection [(2)(a)(ii)] (2)(b) on a first offense may
17203 receive a written warning for the offense and may not receive a citation or any other
17204 form of punishment.

17205 (b) An actor who violates Subsection [(2)(a)(ii)] (2)(b) on a second or subsequent offense
17206 may receive a written warning or a citation.

17207 [(6)] (7)(a) Except as provided in Subsection [(6)(d)] (7)(d), if a law enforcement officer
17208 issues a citation to an actor for an infraction as a result of the actor's conduct
17209 described in Subsection [(2)(a)(ii)] (2)(b), or provides an oral or written warning for
17210 that conduct, the law enforcement officer shall:

17211 (i) if the law enforcement officer is able to confirm that the actor may lawfully
17212 possess the [~~firearm or other~~]dangerous weapon, allow the actor, at the actor's
17213 option, to:

17214 (A) temporarily surrender custody of the [~~firearm or other~~]dangerous weapon into
17215 the custody of the law enforcement agency so that the [~~firearm or other~~]
17216 dangerous weapon may be retrieved by the actor at a later date; or

17217 (B) exit the secure area of the airport with the [~~firearm or other~~]dangerous
17218 weapon; or

17219 (ii) if the law enforcement officer is unable to confirm that the actor may lawfully

17220 possess the [~~firearm or other~~]dangerous weapon, or the airport authority under
17221 Subsection [~~(6)(d)~~] (7)(d) prohibits the procedure described in Subsection [~~(6)(a)(i)~~;
17222 (7)(a)(i), take temporary custody of the [~~firearm or other~~]dangerous weapon so
17223 that the [~~firearm or other~~]dangerous weapon may be retrieved by the actor at a
17224 later date if legally permitted to do so.

17225 (b) If a law enforcement officer takes temporary custody of a [~~firearm or other~~]
17226 dangerous weapon under Subsection [~~(6)(a)~~] (7)(a):

17227 (i) at the time the [~~firearm or other~~]dangerous weapon is obtained from the actor, the
17228 law enforcement officer, or another law enforcement officer, or an employee who
17229 works in the secure area of the airport, shall provide the actor with written
17230 instructions on how, when, and where the actor may retrieve the actor's [~~firearm or~~
17231 ~~other~~]dangerous weapon; and

17232 (ii) within three business days from the time when the law enforcement officer
17233 receives the [~~firearm or other~~]dangerous weapon, the law enforcement agency
17234 shall determine whether the actor is legally permitted to possess the [~~firearm or~~
17235 ~~other~~]dangerous weapon, and if so, ensure that the [~~firearm or other~~]dangerous
17236 weapon is available for the actor to retrieve.

17237 (c) An unclaimed [~~firearm or other~~]dangerous weapon that is surrendered into the
17238 custody of a law enforcement agency under this Subsection (6) may be disposed of
17239 pursuant to Section 77-11d-105, disposition of unclaimed property.

17240 (d) An airport authority may implement a policy that prohibits the law enforcement
17241 agency with jurisdiction over the airport from utilizing the procedure described in
17242 Subsection [~~(6)(a)(i)~~] (7)(a)(i).

17243 [(7)] (8)(a) An actor's firearm that is confiscated based on a violation of Subsection [
17244 ~~(2)(a)(i)~~] (2)(a) shall be returned to the actor in accordance with Subsection
17245 77-11a-402(1)(b)[-].

17246 (b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [
17247 ~~(2)(a)(i)~~] (2)(a) is not subject to forfeiture if the actor may lawfully possess the
17248 firearm.

17249 (c) In a prosecution brought under this section, a prosecutor may not condition a plea on
17250 the forfeiture of a firearm.

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17251 [(8)] (9) An airport authority, county, municipality, or other entity regulating an airport or
17252 with local jurisdiction over an airport may not:
17253 (a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local
17254 ordinance, or another state or local law or regulation for conduct described in
17255 Subsection [(2)(a)(ii)] (2)(b);
17256 (b) assess a civil penalty for conduct described in Subsection [(2)(a)(i) or (ii)] (2); or
17257 (c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

17258 [(9)] (10) A law enforcement agency that issues a written warning, citation, or referral for
17259 prosecution under this section shall record and report the information as required under
17260 Section 53-25-103.

17261 Section 358. Section **76-11-216**, which is renumbered from Section 76-10-530 is renumbered
17262 and amended to read:

17263 **[76-10-530] 76-11-216 . Trespass with a firearm in a house of worship or a private residence.**

17264 (1) ~~[A person, including a person licensed to carry a concealed firearm pursuant to Title 53,~~
17265 ~~Chapter 5, Part 7, Concealed Firearm Act, after notice has been given as provided in~~
17266 ~~Subsection (2) that firearms are prohibited, may not knowingly and intentionally:]~~

17267 [(a) transport a firearm into:]

17268 [(i) a house of worship; or]

17269 [(ii) a private residence; or]

17270 [(b) while in possession of a firearm, enter or remain in:]

17271 [(i) a house of worship; or]

17272 [(ii) a private residence.]

Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

17273 (2) An actor, including an actor licensed to carry a concealed firearm pursuant to Title 53,
17274 Chapter 5, Part 7, Concealed Firearm Act, commits trespass with a firearm in a house of
17275 worship or a private residence if:

17276 (a) the actor has been given notice as described in Subsection (4) that firearms are
17277 prohibited in a house or worship or a private residence; and

17278 (b) knowingly and intentionally:

17279 (i) transports a firearm into the house of worship or private residence; or

17280 (ii) while in possession of a firearm, enters or remains in the house of worship or

- 17281 private residence.
- 17282 (3) A violation of Subsection (2) is an infraction.
- 17283 [~~(2)~~] (4) Notice that firearms are prohibited may be given by:
- 17284 (a) personal communication to the actor by:
- 17285 (i) the church or organization operating the house of worship;
- 17286 (ii) the owner, lessee, or person with lawful right of possession of the private
- 17287 residence; or
- 17288 (iii) a person with authority to act for the person or entity in Subsections [~~(2)~~](a)(i)
- 17289 (4)(a)(i) and (ii);
- 17290 (b) posting of signs reasonably likely to come to the attention of persons entering the
- 17291 house of worship or private residence;
- 17292 (c) announcement, by a person with authority to act for the church or organization
- 17293 operating the house of worship, in a regular congregational meeting in the house of
- 17294 worship;
- 17295 (d) publication in a bulletin, newsletter, worship program, or similar document generally
- 17296 circulated or available to the members of the congregation regularly meeting in the
- 17297 house of worship; or
- 17298 (e) publication:
- 17299 (i) in a newspaper of general circulation in the county in which the house of worship
- 17300 is located or the church or organization operating the house of worship has its
- 17301 principal office in this state; and
- 17302 (ii) as required in Section 45-1-101.
- 17303 [~~(3)~~] (5) A church or organization operating a house of worship and giving notice that
- 17304 firearms are prohibited may:
- 17305 (a) revoke the notice, with or without supersedure, by giving further notice in any
- 17306 manner provided in Subsection [~~(2)~~] (4); and
- 17307 (b) provide or allow exceptions to the prohibition as the church or organization
- 17308 considers advisable.
- 17309 [~~(4)~~] (6)(a)(i) Within 30 days of giving or revoking any notice pursuant to
- 17310 Subsection [~~(2)~~](e) (4)(c), (d), or (e), a church or organization operating a house of
- 17311 worship shall notify the division on a form and in a manner as the division shall

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- 17312 prescribe.
- 17313 (ii) The division shall post on [its] the division's website a list of the churches and
- 17314 organizations operating houses of worship who have given notice under
- 17315 Subsection [~~(4)(a)(i)~~] (6)(a)(i).
- 17316 (b) Any notice given pursuant to Subsection [~~(2)(e)~~] (4)(c), (d), or (e) shall remain in
- 17317 effect until revoked or for a period of one year from the date the notice was originally
- 17318 given, whichever occurs first.

17319 [~~(5)~~] (7) [~~Nothing in this section permits-~~] This section does not permit an owner who has

17320 granted the lawful right of possession to a renter or lessee to restrict the renter or lessee

17321 from lawfully possessing a firearm in the residence.

17322 [~~(6) A violation of this section is an infraction.~~]

17323 Section 359. Section **76-11-301** is enacted to read:

17324 **Part 3. Persons Restricted Regarding Dangerous Weapons**

17325 **76-11-301 . Definitions.**

17326 As used in this part:

17327 (1) "Adjudicated" means a judgment has been entered against a minor for an offense by a

17328 juvenile court under Section 80-6-701.

17329 (2) "Controlled substance" means the same as that term is defined in Section 58-37-2.

17330 (3)(a) "Dating relationship" means a romantic or intimate relationship between

17331 individuals.

17332 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary

17333 fraternization in a business or social context.

17334 (4) "Dealer" means a person who is:

17335 (a) licensed under 18 U.S.C. Sec. 923; and

17336 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm,

17337 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

17338 (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

17339 (6) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

17340 Section 360. Section **76-11-302**, which is renumbered from Section 76-10-503 is renumbered

17341 and amended to read:

17342 **[76-10-503] 76-11-302 . Restrictions on possession, purchase, transfer, and ownership of**

17343 **dangerous weapons by certain persons -- Exceptions.**

17344 (1) For purposes of this section:

17345 (a) A Category I restricted person is a person who:

17346 (i) has been convicted of a violent felony;

17347 (ii) is on probation or parole for a felony;

17348 (iii) is on parole from secure care, as defined in Section 80-1-102;

17349 (iv) within the last 10 years has been adjudicated [~~under Section 80-6-701~~]for an

17350 offense which if committed by an adult would have been a violent felony[~~as~~

17351 ~~defined in Section 76-3-203.5~~];

17352 (v) is an alien who is illegally or unlawfully in the United States; or

17353 (vi) is on probation for a conviction of possessing:

17354 (A) a [~~substance classified in Section 58-37-4 as a~~]Schedule I or II controlled

17355 substance;

17356 (B) a controlled substance analog; or

17357 (C) a substance listed in Section 58-37-4.2.

17358 (b) A Category II restricted person is a person who:

17359 (i) has been convicted of:

17360 (A) a domestic violence offense that is a felony;

17361 (B) a felony that is not a domestic violence offense or a violent felony and within

17362 seven years after completing the sentence for the conviction, has been

17363 convicted of or charged with another felony or class A misdemeanor;

17364 (C) multiple felonies that are part of a single criminal episode and are not

17365 domestic violence offenses or violent felonies and within seven years after

17366 completing the sentence for the convictions, has been convicted of or charged

17367 with another felony or class A misdemeanor; or

17368 (D) multiple felonies that are not part of a single criminal episode;

17369 (ii)(A) within the last seven years has completed a sentence for:

17370 (I) a conviction for a felony that is not a domestic violence offense or a violent

17371 felony; or

17372 (II) convictions for multiple felonies that are part of a single criminal episode

17373 and are not domestic violence offenses or violent felonies; and

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- 17374 (B) within the last seven years and after the completion of a sentence for a
17375 conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or
17376 charged with another felony or class A misdemeanor;
- 17377 (iii) within the last seven years has been adjudicated delinquent for an offense which
17378 if committed by an adult would have been a felony;
- 17379 (iv) is an unlawful user of a controlled substance~~[-as defined in Section 58-37-2];~~
- 17380 (v) is in possession of a dangerous weapon and is knowingly and intentionally in
17381 unlawful possession of a Schedule I or II controlled substance~~[-as defined in~~
17382 ~~Section 58-37-2];~~
- 17383 (vi) has been found not guilty by reason of insanity for a felony offense;
- 17384 (vii) has been found mentally incompetent to stand trial for a felony offense;
- 17385 (viii) has been adjudicated as mentally defective as provided in the Brady Handgun
17386 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been
17387 committed to a mental institution;
- 17388 (ix) has been dishonorably discharged from the armed forces;
- 17389 (x) has renounced the individual's citizenship after having been a citizen of the
17390 United States;
- 17391 (xi) is a respondent or defendant subject to a protective order or child protective order
17392 that is issued after a hearing for which the respondent or defendant received actual
17393 notice and at which the respondent or defendant has an opportunity to participate,
17394 that restrains the respondent or defendant from harassing, stalking, threatening, or
17395 engaging in other conduct that would place an intimate partner, as defined in 18
17396 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily
17397 injury to the intimate partner or child of the intimate partner, and that:
- 17398 (A) includes a finding that the respondent or defendant represents a credible threat
17399 to the physical safety of an individual who meets the definition of an intimate
17400 partner in 18 U.S.C. Sec. 921 or the child of the individual; or
- 17401 (B) explicitly prohibits the use, attempted use, or threatened use of physical force
17402 that would reasonably be expected to cause bodily harm against an intimate
17403 partner or the child of an intimate partner; or
- 17404 (xii) except as provided in Subsection (1)(d), has been convicted of the commission

- 17405 or attempted commission of misdemeanor assault under Section 76-5-102 or
17406 aggravated assault under Section 76-5-103 against an individual:
- 17407 (A) who is a current or former spouse, parent, or guardian;
 - 17408 (B) with whom the restricted person shares a child in common;
 - 17409 (C) who is cohabitating or has cohabitated with the restricted person as a spouse,
17410 parent, or guardian;
 - 17411 (D) involved in a dating relationship with the restricted person within the last five
17412 years; or
 - 17413 (E) similarly situated to a spouse, parent, or guardian of the restricted person.
- 17414 (c)(i) As used in this section, a conviction of a felony or adjudication of delinquency
17415 for an offense which would be a felony if committed by an adult does not include:
- 17416 (A) a conviction or an adjudication under Section 80-6-701 for an offense
17417 pertaining to antitrust violations, unfair trade practices, restraint of trade, or
17418 other similar offenses relating to the regulation of business practices not
17419 involving theft or fraud; or
 - 17420 (B) a conviction or an adjudication under Section 80-6-701 which, in accordance
17421 with the law of the jurisdiction in which the conviction or adjudication
17422 occurred, has been expunged, set aside, reduced to a misdemeanor by court
17423 order, pardoned or regarding which the person's civil rights have been restored
17424 unless the pardon, reduction, expungement, or restoration of civil rights
17425 expressly provides that the person may not ship, transport, possess, or receive
17426 firearms.
- 17427 (ii) As used in this section, a conviction for misdemeanor assault under Subsection
17428 (1)(b)(xii), does not include a conviction which, in accordance with the law of the
17429 jurisdiction in which the conviction occurred, has been expunged, set aside,
17430 reduced to an infraction by court order, pardoned, or regarding which the person's
17431 civil rights have been restored, unless the pardon, reduction, expungement, or
17432 restoration of civil rights expressly provides that the person may not ship,
17433 transport, possess, or receive firearms.
- 17434 (iii) It is the burden of the defendant in a criminal case to provide evidence that a
17435 conviction or an adjudication under Section 80-6-701 is subject to an exception

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17436 provided in this Subsection (1)(c), after which it is the burden of the state to prove
17437 beyond a reasonable doubt that the conviction or the adjudication is not subject to
17438 that exception.

17439 (d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

17440 (i) five years have elapsed from the later of:

17441 (A) the day on which the conviction is entered;

17442 (B) the day on which the person is released from incarceration following the
17443 conviction; or

17444 (C) the day on which the person's probation for the conviction is successfully
17445 terminated;

17446 (ii) the person only has a single conviction for misdemeanor assault as described in
17447 Subsection (1)(b)(xii)(D); and

17448 (iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

17449 (2) A Category I restricted person who intentionally or knowingly agrees, consents, offers,
17450 or arranges to purchase, transfer, possess, use, or have under the person's custody or
17451 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has
17452 under the person's custody or control:

17453 (a) a firearm is guilty of a second degree felony; or

17454 (b) a dangerous weapon other than a firearm is guilty of a third degree felony.

17455 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
17456 possesses, uses, or has under the person's custody or control:

17457 (a) a firearm is guilty of a third degree felony; or

17458 (b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

17459 (4) A person may be subject to the restrictions of both categories at the same time.

17460 (5) A Category I or Category II restricted person may not use an antique firearm for an
17461 activity regulated under Title 23A, Wildlife Resources Act.

17462 (6) If a higher penalty than is prescribed in this section is provided in another section for
17463 one who purchases, transfers, possesses, uses, or has under this custody or control a
17464 dangerous weapon, the penalties of that section control.

17465 (7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v)
17466 that the person was:

17467 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner for
17468 use of a member of the person's household or for administration to an animal owned
17469 by the person or a member of the person's household; or

17470 (b) otherwise authorized by law to possess the substance.

17471 (8)(a) It is an affirmative defense to transferring a firearm or other dangerous weapon
17472 by a person restricted under Subsection (2) or (3) that the firearm or dangerous
17473 weapon:

17474 (i) was possessed by the person or was under the person's custody or control before
17475 the person became a restricted person;

17476 (ii) was not used in or possessed during the commission of a crime or subject to
17477 disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized
17478 Property and Contraband;

17479 (iii) is not being held as evidence by a court or law enforcement agency;

17480 (iv) was transferred to a person not legally prohibited from possessing the weapon;
17481 and

17482 (v) unless a different time is ordered by the court, was transferred within 10 days of
17483 the person becoming a restricted person.

17484 (b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of
17485 a firearm or other dangerous weapon by a restricted person.

17486 (9)(a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous
17487 weapon to a person, knowing that the recipient is a person described in Subsection
17488 (1)(a) or (b).

17489 (b) A person who violates Subsection (9)(a) when the recipient is:

17490 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
17491 guilty of a second degree felony;

17492 (ii) a person described in Subsection (1)(a) and the transaction involves a dangerous
17493 weapon other than a firearm, and the transferor has knowledge that the recipient
17494 intends to use the weapon for any unlawful purpose, is guilty of a third degree
17495 felony;

17496 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
17497 guilty of a third degree felony; or

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17498 (iv) a person described in Subsection (1)(b) and the transaction involves a dangerous
17499 weapon other than a firearm, and the transferor has knowledge that the recipient
17500 intends to use the weapon for an unlawful purpose, is guilty of a class A
17501 misdemeanor.

17502 (10)(a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
17503 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon
17504 under circumstances which the person knows would be a violation of the law.

17505 (b) A person may not provide to a dealer or other person information that the person
17506 knows to be materially false information with intent to deceive the dealer or other
17507 person about the legality of a sale, transfer or other disposition of a firearm or
17508 dangerous weapon.

17509 (c) "Materially false information" means information that portrays an illegal transaction
17510 as legal or a legal transaction as illegal.

17511 (d) A person who violates this Subsection (10) is guilty of:

17512 (i) a third degree felony if the transaction involved a firearm; or

17513 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than
17514 a firearm.

17515 (11)(a) It is not a violation of Subsection (2) or (3) for an actor who is a restricted
17516 person to own, possess, or have under the actor's custody or control, archery
17517 equipment, including crossbows, for the purpose of lawful hunting and lawful target
17518 shooting.

17519 (b) Notwithstanding Subsection (11)(a), this section applies if the owning, possessing, or
17520 having under the actor's custody or control of archery equipment, including
17521 crossbows, is prohibited by:

17522 (i) a court, as a condition of pre-trial release or probation; or

17523 (ii) the Board of Pardons and Parole, as a condition of parole.

17524 Section 361. Section **76-11-309**, which is renumbered from Section 76-10-503.1 is renumbered
17525 and amended to read:

17526 **[76-10-503.1]76-11-309 . Firearm restriction notification requirement for restricted persons.**

17527 (1) As used in this section:

17528 (a) "Peace officer" means an officer described Section 53-13-102.

- 17529 (b) "Possess" means actual physical possession, actual or purported ownership, or
17530 exercising control of an item.
- 17531 (c) "Restricted person" means an individual who is restricted from possessing,
17532 purchasing, transferring, or owning a firearm under Section [~~76-10-503~~] 76-11-302.
- 17533 (2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon
17534 conviction, cause the defendant to become a restricted person shall, before entering a
17535 plea before a court, sign an acknowledgment that states:
- 17536 (a) the defendant's attorney or the prosecuting attorney has informed the defendant:
- 17537 (i) that conviction of the charge will classify the defendant as a restricted person;
17538 (ii) that a restricted person may not possess a firearm; and
17539 (iii) of the criminal penalties associated with possession of a firearm by a restricted
17540 person of the same category the defendant will become upon entering a plea for
17541 the criminal charge; and
- 17542 (b) the defendant acknowledges and understands that, by pleading guilty or no contest to
17543 the criminal charge, the defendant:
- 17544 (i) will be a restricted person;
17545 (ii) upon conviction, shall forfeit possession of each firearm currently possessed by
17546 the defendant; and
17547 (iii) will be in violation of federal and state law if the defendant possesses a firearm.
- 17548 (3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment
17549 described in Subsection (2) to the court before the defendant's entry of a plea, if the
17550 defendant pleads guilty or no contest.
- 17551 (4) A defendant who is convicted by trial of a criminal charge resulting in the defendant
17552 becoming a restricted person shall, at the time of sentencing:
- 17553 (a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:
- 17554 (i) that the defendant is a restricted person;
17555 (ii) that, as a restricted person, the defendant may not possess a firearm; and
17556 (iii) of the criminal penalties associated with possession of a firearm by a restricted
17557 person of the defendant's category; and
- 17558 (b) sign an acknowledgment in the presence of the court attesting that the defendant
17559 acknowledges and understands that the defendant:

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- 17560 (i) is a restricted person;
- 17561 (ii) shall forfeit possession of each firearm; and
- 17562 (iii) will be in violation of federal and state law if the defendant possesses a firearm.
- 17563 (5) The prosecuting attorney and the defendant's attorney shall inform the court at the
- 17564 preliminary hearing if a charge filed against the defendant would qualify the defendant
- 17565 as a restricted person if the defendant is convicted of the charge.
- 17566 (6) The failure to inform or obtain a signed acknowledgment from the defendant may not
- 17567 render the plea invalid, form the basis for withdrawal of the plea, or create a basis to
- 17568 challenge a conviction or sentence.
- 17569 (7) An individual who becomes a restricted person as a result of being served with a pretrial
- 17570 protective order in accordance with Section 78B-7-803, a sentencing protective order in
- 17571 accordance with Section 77-36-5, or a continuous protective order in accordance with
- 17572 Section 77-36-5, shall, at the time of service of the protective order:
- 17573 (a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a
- 17574 peace officer is serving the protective order, the peace officer:
- 17575 (i) that the individual is a restricted person;
- 17576 (ii) that, as a restricted person, the individual may not possess a firearm; and
- 17577 (iii) of the criminal penalties associated with possession of a firearm by a restricted
- 17578 person of the individual's category; and
- 17579 (b) sign, in the presence of the court or, if a peace officer serves the protective order, in
- 17580 the presence of the peace officer, an acknowledgment contained within the protective
- 17581 order document attesting that the individual acknowledges and understands that the
- 17582 individual:
- 17583 (i) is a restricted person;
- 17584 (ii) is required to relinquish possession of each firearm;
- 17585 (iii) will be in violation of federal and state law if the individual possesses a firearm;
- 17586 and
- 17587 (iv) may be eligible for an affirmative defense to a state-law prosecution for
- 17588 possession of a firearm under Section [~~76-10-503~~] 76-11-302 if the individual
- 17589 lawfully transfers the individual's firearms within 10 days of becoming a restricted
- 17590 person.

17591 Section 362. Section **76-11-310**, which is renumbered from Section 76-10-532 is renumbered
17592 and amended to read:

17593 **~~[76-10-532]~~76-11-310 . Removal from National Instant Check System database for certain**
17594 **restricted persons.**

17595 (1) A person who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(vi), (vii), or~~
17596 ~~(viii)] 76-11-302(1)(b)(vi), (vii), or (viii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a
17597 commitment, finding, or adjudication that occurred in this state may petition the district
17598 court in the county in which the commitment, finding, or adjudication occurred to
17599 remove the disability imposed.~~

17600 (2) The petition shall be filed in the district court in the county where the commitment,
17601 finding, or adjudication occurred. The petition shall include:

17602 (a) a listing of facilities, with their addresses, where the petitioner has ever received
17603 mental health treatment;

17604 (b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain
17605 the petitioner's mental health records;

17606 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist
17607 occurring within 30 days prior to the filing of the petition, which shall include a
17608 statement regarding:

17609 (i) the nature of the commitment, finding, or adjudication that resulted in the
17610 restriction on the petitioner's ability to purchase or possess a dangerous weapon;

17611 (ii) the petitioner's previous and current mental health treatment;

17612 (iii) the petitioner's previous violent behavior, if any;

17613 (iv) the petitioner's current mental health medications and medication management;

17614 (v) the length of time the petitioner has been stable;

17615 (vi) external factors that may influence the petitioner's stability;

17616 (vii) the ability of the petitioner to maintain stability with or without medication; and

17617 (viii) whether the petitioner is dangerous to public safety; and

17618 (d) a copy of the petitioner's state and federal criminal history record.

17619 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case
17620 or, if the disability is not based on a criminal case, on the county or district attorney's
17621 office having jurisdiction where the petition was filed and the individual who filed the

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- 17622 original action which resulted in the disability.
- 17623 (4)(a) The court shall schedule a hearing as soon as practicable[~~.-The-~~] in which the
- 17624 petitioner may present evidence and subpoena witnesses to appear at the hearing.[~~-~~]
- 17625 (b) The prosecuting, county attorney, or the individual who filed the original action
- 17626 which resulted in the disability may object to the petition and present evidence in
- 17627 support of the objection.
- 17628 (5) The court shall consider the following evidence:
- 17629 (a) the facts and circumstances that resulted in the commitment, finding, or adjudication;
- 17630 (b) the [person's] petitioner's mental health and criminal history records; and
- 17631 (c) the [person's] petitioner's reputation, including the testimony of character witnesses.
- 17632 (6) The court shall grant the relief if the court finds by clear and convincing evidence that:
- 17633 (a) the [person] petitioner is not a danger to the [person] petitioner or to [others] another
- 17634 individual;
- 17635 (b) the [person] petitioner is not likely to act in a manner dangerous to public safety; and
- 17636 (c) the requested relief would not be contrary to the public interest.
- 17637 (7) The court shall issue an order with its findings and send a copy to the bureau.
- 17638 (8)(a) The bureau, upon receipt of a court order removing a [person's] petitioner's
- 17639 disability under Subsection [76-10-503(1)(b)(viii)] 76-11-302(1)(b)(viii), shall send a
- 17640 copy of the court order to the National Instant Check System requesting removal of
- 17641 the [person's] petitioner's name from the database.[~~-~~]
- 17642 (b) In addition to the action described in Subsection (8)(a), if the [person] petitioner is
- 17643 listed in a state database utilized by the bureau to determine eligibility for the
- 17644 purchase or possession of a firearm or to obtain a concealed firearm permit, the
- 17645 bureau shall remove the petitioner's name or send a copy of the court's order to the
- 17646 agency responsible for the database for removal of the petitioner's name.
- 17647 (9) If the court denies the petition, the petitioner may not petition again for relief until at
- 17648 least two years after the date of the court's final order.
- 17649 (10) The petitioner may appeal a denial of the requested relief[~~.-The-~~] and the review on
- 17650 appeal shall be de novo.

17651 Section 363. Section **76-12-101** is enacted to read:

17652

CHAPTER 12. OFFENSES RELATED TO PRIVACY,
INFORMATION, AND COMMUNICATION

17654

Part 1. General Provisions

17655

76-12-101 . Definitions.

17656

Reserved.

17657

Section 364. Section **76-12-201** is enacted to read:

17658

Part 2. Electronic Communication Abuse

17659

76-12-201 . Definitions.

17660

As used in this part:

17661

(1)(a) "Adult" means an individual 18 years old or older.

17662

(b) "Adult" does not include an individual who is 18 years old and enrolled in high school.

17663

17664

(2)(a) "Electronic communication" means a communication by electronic,

17665

electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text.

17666

17667

(b) "Electronic communication" does not include a broadcast transmission or a similar communication that is not targeted at a specific individual.

17668

17669

(3) "Electronic communication device" includes a telephone, a facsimile machine,

17670

electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

17671

17672

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

17673

(b) "Minor" includes an individual who is 18 years old and enrolled in high school.

17674

Section 365. Section **76-12-202**, which is renumbered from Section 76-9-201 is renumbered and amended to read:

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17676

~~[76-9-201]~~76-12-202 . Electronic communication harassment.

17677

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

17678

~~[(a)(i) "Adult" means an individual 18 years old or older.]~~

17679

~~[(ii) "Adult" does not include an individual who is 18 years old and enrolled in high~~

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- 17680 school.]
- 17681 [(b) "Electronic communication" means a communication by electronic,
17682 electro-mechanical, or electro-optical communication device for the transmission and
17683 reception of audio, image, or text but does not include broadcast transmissions or
17684 similar communications that are not targeted at a specific individual.]
- 17685 [(c) "Electronic communication device" includes a telephone, a facsimile machine,
17686 electronic mail, a pager, a computer, or another device or medium that can be used to
17687 communicate electronically.]
- 17688 [(d)(i) "Minor" means an individual who is younger than 18 years old.]
- 17689 [(ii) "Minor" includes an individual who is 18 years old and enrolled in high school.]
- 17690 [(e) "Minor victim" means a minor who is a victim of a violation of Subsection (4).]
- 17691 [(f) "Personal identifying information" means the same as that term is defined in
17692 Section ~~76-6-1101.~~ Sections 76-1-101.5, 76-12-101, and 76-12-201
17693 apply to this section

.

- 17694 (2) Except to the extent [~~the person's~~] an actor's conduct constitutes an offense under
17695 Section [~~76-9-203~~] 76-12-206, [~~a person is guilty of~~] an actor commits electronic
17696 communication harassment [~~and subject to prosecution in the jurisdiction where the~~
17697 ~~communication originated or was received~~]if, with intent to intimidate, abuse, threaten,
17698 harass, frighten, or disrupt the electronic communications of another, the [~~person~~] actor:
- 17699 (a)(i) makes repeated contact by means of electronic communications, regardless of
17700 whether a conversation ensues; or
- 17701 (ii) after the recipient has requested or informed the [~~person~~] actor not to contact the
17702 recipient, and the [~~person~~] actor repeatedly or continuously:
- 17703 (A) contacts the electronic communication device of the recipient; or
17704 (B) causes an electronic communication device of the recipient to ring or to
17705 receive other notification of attempted contact by means of electronic
17706 communication;
- 17707 (b) makes contact by means of electronic communication and insults, taunts, or
17708 challenges the recipient of the communication or any person at the receiving location
17709 in a manner likely to provoke a violent or disorderly response;

- 17710 (c) makes contact by means of electronic communication and threatens to inflict injury,
17711 physical harm, or damage to any person or the property of any person; or
17712 (d) causes disruption, jamming, or overload of an electronic communication system
17713 through excessive message traffic or other means utilizing an electronic
17714 communication device.
- 17715 [~~(3) A person is guilty of electronic communication harassment if the person:]~~
17716 [~~(a) electronically publishes, posts, or otherwise discloses personal identifying information~~
17717 ~~of another individual in a public online site or forum with the intent to abuse, threaten,~~
17718 ~~or disrupt the other individual's electronic communication and without the other~~
17719 ~~individual's permission; or]~~
17720 [~~(b) sends a communication by electronic mail, instant message, or other similar means, if:]~~
17721 [~~(i) the communication references personal identifying information of another individual;]~~
17722 [~~(ii) the person sends the communication:]~~
17723 [~~(A) without the individual's consent; and]~~
17724 [~~(B) with the intent to cause a recipient of the communication to reasonably believe that~~
17725 ~~the individual authorized or sent the communication; and]~~
17726 [~~(iii) with the intent to:]~~
17727 [~~(A) cause an individual physical, emotional, or economic injury or damage; or]~~
17728 [~~(B) defraud an individual.]~~
- 17729 [~~(4) A person is guilty of electronic communication harassment if:]~~
17730 [~~(a) the person:]~~
17731 [~~(i) is an adult;]~~
17732 [~~(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum~~
17733 ~~personal identifying information of a minor who is unrelated by blood, marriage, or~~
17734 ~~adoption to the person; and]~~
17735 [~~(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that~~
17736 ~~performing the action described in Subsection (4)(a)(ii) will result in the minor being the~~
17737 ~~victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual;~~
17738 ~~and]~~
17739 [~~(b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described in~~
17740 ~~Subsection (4)(a)(ii).]~~

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17741 [~~(5)~~] (3)(a) Except as provided in Subsection [~~(5)(b)~~] (3)(b), a violation of Subsection (2) [
17742 or ~~(3)~~] is a class B misdemeanor.

17743 (b) A second or subsequent violation of Subsection (2)[~~or (3)~~] is a class A misdemeanor.

17744 [~~(c) A violation of Subsection (4) is a class A misdemeanor.~~]

17745 [~~(6)~~] (4)(a) Except as provided [~~under~~] in Subsection [~~(6)(b)~~] (4)(b), a criminal
17746 prosecution under this section does not affect an individual's right to bring a civil
17747 action for damages suffered as a result of the commission of an offense under this
17748 section.

17749 (b) This section does not create a civil cause of action based on electronic
17750 communications made for a legitimate business [~~purposes~~] purpose.

17751 [~~(7)(a) A minor victim has a civil right of action against an actor who violates Subsection~~
17752 ~~(4):]~~

17753 [~~(b) A minor victim who brings a successful civil action under Subsection (7)(a) is entitled~~
17754 ~~to recover from the actor:]~~

17755 [~~(i) damages resulting from the violation of Subsection (4);]~~
17756 [~~(ii) reasonable attorney fees; and]~~
17757 [~~(iii) court costs:]~~

17758 (5) A violation of this section is subject to prosecution in the jurisdiction in which the
17759 electronic communication originated or was received.

17760 Section 366. Section **76-12-203** is enacted to read:

17761 **76-12-203 . Unlawful electronic disclosure of personal identifying information.**

17762 (1)(a) As used in this section, "personal identifying information" means the same as that
17763 term is defined in Section 76-6-1101.

17764 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
17765 section.

17766 (2) An actor commits unlawful electronic disclosure of personal identifying information if
17767 the actor:

17768 (a)(i) electronically publishes, posts, or otherwise discloses personal identifying
17769 information of another individual in a public online site or forum without the
17770 permission of the other individual; and

17771 (ii) undertakes the action described in Subsection (2)(a)(i) with the intent to abuse,

- 17772 threaten, or disrupt the other individual's electronic communication; or
- 17773 (b) sends a communication by electronic mail, instant message, or other similar means,
- 17774 if:
- 17775 (i) the communication references personal identifying information of another
- 17776 individual;
- 17777 (ii) the actor sends the communication:
- 17778 (A) without the individual's consent; and
- 17779 (B) with the intent to cause a recipient of the communication to reasonably believe
- 17780 that the individual authorized or sent the communication; and
- 17781 (iii) with the intent to:
- 17782 (A) cause an individual physical, emotional, or economic injury or damage; or
- 17783 (B) defraud an individual.
- 17784 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
- 17785 misdemeanor.
- 17786 (b) A second or subsequent violation of Subsection (2) is a class A misdemeanor.
- 17787 (4)(a) Except as provided in Subsection (4)(b), a criminal prosecution under this section
- 17788 does not affect an individual's right to bring a civil action for damages suffered as a
- 17789 result of the commission of an offense under this section.
- 17790 (b) This section does not create a civil cause of action based on an electronic
- 17791 communication made for a legitimate business purpose.
- 17792 Section 367. Section **76-12-204** is enacted to read:
- 17793 **76-12-204 . Unlawful electronic disclosure of a minor's personal information.**
- 17794 (1)(a) As used in this section:
- 17795 (i) "Minor victim" means a minor who is a victim of a violation of Subsection (2).
- 17796 (ii) "Personal identifying information" means the same as that term is defined in
- 17797 Section 76-6-1101.
- 17798 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
- 17799 section.
- 17800 (2) An actor commits unlawful electronic disclosure of a minor's personal information if:
- 17801 (a) the actor:
- 17802 (i) is an adult;

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- 17803 (ii) electronically publishes, posts, or otherwise discloses in a public online site or
17804 forum personal identifying information of a minor who is unrelated by blood,
17805 marriage, or adoption to the actor; and
- 17806 (iii) knows of, but consciously disregards, a substantial and unjustifiable risk that
17807 performing the action described in Subsection (2)(a)(ii) will result in the minor
17808 being the victim of an offense described in Title 76, Chapter 5, Offenses Against
17809 the Individual; and
- 17810 (b) the minor described in Subsection (2)(a)(ii) is aware of the actor's action described in
17811 Subsection (2)(a)(ii).
- 17812 (3) A violation of Subsection (2) is a class A misdemeanor.
- 17813 (4)(a) Except as provided in Subsection (4)(b), a criminal prosecution under this section
17814 does not affect an individual's right to bring a civil action for damages suffered as a
17815 result of the commission of an offense under this section.
- 17816 (b) This section does not create a civil cause of action based on an electronic
17817 communication made for a legitimate business purpose.
- 17818 (5)(a) A minor victim has a civil right of action against an actor who violates
17819 Subsection (2).
- 17820 (b) A minor victim who brings a successful civil action under Subsection (5)(a) is
17821 entitled to recover from the actor:
- 17822 (i) damages resulting from the violation of Subsection (2);
17823 (ii) reasonable attorney fees; and
17824 (iii) court costs.
- 17825 Section 368. Section **76-12-205**, which is renumbered from Section 76-6-703.1 is renumbered
17826 and amended to read:
- 17827 ~~[76-6-703.1]~~ **76-12-205 . Disclosure of personal information with intent to cause electronic**
17828 **communication harassment.**
- 17829 (1)(a) As used in this section~~[-"electronic-]~~ :
- 17830 (i) "Adult" means an individual 18 years old or older.
17831 (ii) "Computer" means the same as that term is defined in Section 76-6-702.
17832 (iii) "Electronic communication harassment" means an offense under Section [
17833 76-9-201] 76-12-202, 76-12-203, or 76-12-204.

- 17834 (iv) "Identifying information" means the same as that term is defined in Section
17835 76-6-702.
- 17836 (v) "Interactive computer service" means the same as that term is defined in Section
17837 76-6-702.
- 17838 (vi) "Minor" means an individual who is younger than 18 years old.
- 17839 (vii) "Service provider" means the same as that term is defined in Section 76-6-702.
- 17840 (viii) "Software" means the same as that term is defined in Section 76-6-702.
- 17841 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and ~~[76-6-702]~~ 76-12-201 apply to
17842 this section.
- 17843 (2) An actor commits ~~[unlawful]~~ disclosure of personal information with intent to cause
17844 electronic communication harassment if:
- 17845 (a) with intent that electronic communication harassment occur, the actor discloses or
17846 disseminates another person's identifying information with the expectation that others
17847 will further disseminate or use the person's identifying information; and
- 17848 (b) the disclosure or dissemination of the other person's identifying information results
17849 in electronic communication harassment.
- 17850 (3)(a) If the ~~[person]~~ individual whose identifying information is disseminated is an
17851 adult, a violation of Subsection (2) is:
- 17852 (i) a class B misdemeanor on the first offense;
- 17853 (ii) a class A misdemeanor on the second offense; or
- 17854 (iii) a third degree felony on a third or subsequent offense.
- 17855 (b) If the ~~[person]~~ individual whose identifying information is disseminated is a minor, a
17856 violation of Subsection (2) is:
- 17857 (i) a class A misdemeanor on the first offense; or
- 17858 (ii) a third degree felony on the second or subsequent offense.
- 17859 (4)(a) This section does not apply to an actor who provides information in conjunction
17860 with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act,
17861 or Title 67, Chapter 21, Utah Protection of Public Employees Act.
- 17862 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and ~~[nothing in~~
17863 ~~this section may be construed to]~~ does not impose liability or culpability on, an
17864 interactive computer service for content provided by another person.

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17865 (c) This section does not affect, limit, or apply to any activity or conduct that is
17866 protected by the constitution or laws of this state, or by the constitution or laws of the
17867 United States.

17868 (5)(a) An interactive computer service [~~is not guilty of violating this section~~] does not
17869 commit a violation of Subsection (2) if an actor violates [~~this section~~] Subsection (2)
17870 using the interactive computer service and the interactive computer service did not
17871 knowingly assist the actor to commit the violation.

17872 (b) A service provider [~~is not guilty of violating this section~~] does not commit a violation
17873 of Subsection (2) for:

17874 (i) action taken in relation to a customer of the service provider, for a legitimate
17875 business purpose, to install software on, monitor, or interact with the customer's
17876 Internet or other network connection, service, or computer for network or
17877 computer security purposes, authentication, diagnostics, technical support,
17878 maintenance, repair, network management, updates of computer software or
17879 system firmware, or remote system management; or

17880 (ii) action taken, including scanning and removing computer software, to detect or
17881 prevent the following:

17882 (A) unauthorized or fraudulent use of a network, service, or computer software;

17883 (B) illegal activity; or

17884 (C) infringement of intellectual property rights.

17885 Section 369. Section **76-12-206**, which is renumbered from Section 76-9-203 is renumbered
17886 and amended to read:

17887 ~~[76-9-203]~~ **76-12-206 . Unlawful online impersonation.**

17888 (1)(a) As used in this section:

17889 ~~[(a)]~~ (i) "Commercial social networking website" means a person who operates a
17890 website that allows a person to register as a user for the purpose of:

17891 ~~[(i)]~~ (A) establishing a personal relationship with one or more other users through
17892 direct or real time communication with the other user; or

17893 ~~[(ii)]~~ (B) the creation of [~~web pages or profiles~~] a web page or a profile available to
17894 the public or to other users.

17895 ~~[(b)]~~ (ii) "Commercial social networking website" does not include an electronic mail

- 17896 program or a message board program.
- 17897 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this
- 17898 section.
- 17899 (2) [~~It is a criminal offense for a person to use-~~] An actor commits unlawful online
- 17900 impersonation if the actor uses the name or persona of an individual:
- 17901 (a) without the individual's consent;
- 17902 (b)(i) to create a web page on a commercial social networking website or other
- 17903 website; or
- 17904 (ii) to post or send a message on or through a commercial social networking website
- 17905 or other website, other than on or through an electronic mail program or message
- 17906 board program;
- 17907 (c) with the intent to cause an individual to reasonably believe that the individual whose
- 17908 name or persona is used authorized or performed the applicable action described in
- 17909 Subsection (2)(b); and
- 17910 (d) with the intent to harm, defraud, intimidate, or threaten any individual.
- 17911 (3)(a) [~~An offense under this section is-~~] Except as provided in Subsection (3)(b), a
- 17912 violation of Subsection (2) is a class A misdemeanor.
- 17913 (b) A second or subsequent offense [~~under this section~~] of Subsection (2) is a third
- 17914 degree felony.
- 17915 (4) It is a defense to prosecution under this section that the [~~person~~] actor is one of the
- 17916 following entities or that the [~~person's~~] actor's conduct consisted solely of action taken as
- 17917 an employee of one of the following entities:
- 17918 (a) a commercial social networking website;
- 17919 (b) an Internet service provider;
- 17920 (c) an interactive computer service, as defined in 47 U.S.C. Sec. 230;
- 17921 (d) a telecommunications provider, as defined in Section 10-1-402;
- 17922 (e) a cable television service;
- 17923 (f) an entity that provides cable television service, as defined in Section 10-18-102; or
- 17924 (g) a law enforcement agency engaged in lawful practices.
- 17925 Section 370. Section **76-12-207**, which is renumbered from Section 76-10-1802 is renumbered
- 17926 and amended to read:

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17927 ~~[76-10-1802]~~ 76-12-207 . **Misrepresentation of a call or text communication identification.**

17928 (1)(a) As used in this section:

17929 ~~[(a)]~~ (i) "Caller or text message identification information" means information

17930 provided by a caller identification service or text message service regarding the

17931 telephone number or other information regarding the origination of a call or text

17932 message made using a telecommunications service or VoIP voice service.

17933 ~~[(b)]~~ (ii) "Caller or text message identification service" means ~~[any]~~ a service or device

17934 designed to provide the user of the service or device with the telephone number

17935 of, or other information regarding, the origination of a call or text message made

17936 using a telecommunications service or VoIP voice service, including automatic

17937 number identification services.

17938 ~~[(c)]~~ (iii) "Text message":

17939 ~~[(i)]~~ (A) means a real-time or near real-time message consisting of text, images,

17940 sounds, or other information transmitted from or received by a device

17941 identified by a telephone number; and

17942 ~~[(ii)]~~ (B) does not include a real-time, two-way voice or video communication.

17943 ~~[(d)]~~ (iv) "VoIP" means a technology that allows telephone calls to be made over

17944 computer networks, including the Internet.

17945 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this

17946 section.

17947 (2) ~~[It is unlawful for any person or individual]~~ An actor commits misrepresentation of a call

17948 or text communication identification if the actor, in connection with ~~[any]~~ a

17949 telecommunications service or VoIP voice service, ~~[to-]~~knowingly ~~[cause any]~~ causes a

17950 caller identification service or text message service to transmit false, misleading, or

17951 inaccurate caller or text message identification information:

17952 (a) with the intent to harm the recipient of the call or text message; or

17953 (b) to a public safety answering point when reporting an emergency.

17954 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C

17955 misdemeanor.

17956 (b) A violation of Subsection (2) is a class B misdemeanor on a second or subsequent

17957 violation.

- 17958 (c) Each separate call or text message is a violation of this section.
- 17959 [~~(3)~~] (4) This section does not prevent or restrict [~~any person or individual~~] a person from
- 17960 blocking the capability of [~~any~~] a caller or text message identification service to transmit
- 17961 caller or text message identification information.
- 17962 [~~(4)~~] (5) The following are exempt from this section:
- 17963 (a) the lawful investigative, protective, or intelligence activity of a law enforcement
- 17964 agency; and
- 17965 (b) a court order that specifically authorizes the use of caller or text message
- 17966 identification manipulation.
- 17967 [~~(5)~~] ~~Each separate call or text message transmitted in violation of this section is:~~
- 17968 [~~(a) for a first violation, a class C misdemeanor; and]~~
- 17969 [~~(b) for a second or subsequent violation, a class B misdemeanor.]~~
- 17970 (6) [~~Violations-~~] A violation of this section may be enforced in a civil action initiated by the
- 17971 recipient of a call, message, or text message made in violation of this section, a criminal
- 17972 action initiated by a prosecuting attorney, or both.
- 17973 (7) This section does not apply to an Internet service provider or hosting company, a
- 17974 provider of public telecommunications services, or a text message service by reason of
- 17975 the fact that the Internet service provider, hosting company, text message service, or
- 17976 provider of public telecommunications services:
- 17977 (a) transmits, routes, or provides connections for material without selecting the material;
- 17978 (b) stores or delivers the material at the direction of a user; or
- 17979 (c) provides a caller or text message identification service.

17980 Section 371. Section **76-12-301**, which is renumbered from Section 76-9-401 is renumbered

17981 and amended to read:

17982 **Part 3. Privacy Offenses**

17983 ~~[76-9-401]~~**76-12-301 . Definitions.**

17984 For purposes of this part:

- 17985 (1) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral
- 17986 communication of another without the consent of at least one party thereto by means of
- 17987 an electronic, mechanical, or other device.
- 17988 (2) "Private place" means a place where one may reasonably expect to be safe from casual

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17989 or hostile intrusion or surveillance.

17990 [(2) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral
17991 communication of others without the consent of at least one party thereto by means of
17992 any electronic, mechanical, or other device.]

17993 (3) "Public" includes any professional or social group of which the victim of a defamation
17994 is a member.

17995 Section 372. Section **76-12-302**, which is renumbered from Section 76-9-402 is renumbered
17996 and amended to read:

17997 **[76-9-402] 76-12-302 . Unlawful privacy violation.**

17998 (1)(a) For purposes of this section, "expectation of privacy" means a property owner's[A
17999 property owner has an] expectation of privacy described in Subsection (6). [regarding
18000 characteristics, data, or information pertaining to the owner's property that]:

18001 [(i) is not immediately apparent through routine visual observation of the property;
18002 and]

18003 [(ii) requires ground-penetrating technology to detect, observe, measure, map, or
18004 otherwise capture information or data about the property or characteristics of the
18005 property.]

18006 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
18007 section.

18008 (2) [~~A person is guilty of~~] An actor commits unlawful privacy violation if, except as
18009 authorized by law, the [person] actor:

18010 (a) trespasses on property with intent to subject anyone to eavesdropping or other
18011 surveillance in a private place;

18012 (b) installs, or uses after unauthorized installation in a private place, without the consent
18013 of the person or persons entitled to privacy in the private place, [~~any~~] a device for
18014 observing, photographing, hearing, recording, amplifying, or broadcasting sounds or
18015 events in the private place;

18016 (c) installs or uses outside of a private place a device for observing, photographing,
18017 hearing, recording, amplifying, or broadcasting sounds or events originating in the
18018 private place [~~which~~] that would not ordinarily be audible, visible, or comprehensible
18019 outside the private place, without the consent of the person or persons entitled to

- 18020 privacy in the private place; or
- 18021 (d) uses ground-penetrating technology, without the consent of the property owner, to
- 18022 detect, observe, measure, map, or otherwise capture information or data about the
- 18023 property or characteristics of the property of another for which the property owner
- 18024 has an expectation of privacy~~[-as described in Subsection (1)].~~
- 18025 (3) A violation of Subsection (2) is a class B misdemeanor.
- 18026 (4) A court may order an actor who commits a violation of Subsection (2) to remove or
- 18027 destroy any data collected by the actor in the commission of the violation of Subsection
- 18028 (2).
- 18029 ~~(5) [A person]~~ An actor is not guilty of a violation of this section if:
- 18030 (a) the device used is an unmanned aircraft;
- 18031 (b) the ~~[person]~~ actor is operating the unmanned aircraft for legitimate commercial or
- 18032 educational purposes in a manner consistent with applicable Federal Aviation
- 18033 Administration rules, exemptions, or other authorizations; and
- 18034 (c) any conduct described in Subsection (2) that occurs via the unmanned aircraft is
- 18035 solely incidental to the lawful commercial or educational use of the unmanned
- 18036 aircraft.
- 18037 ~~[(4) For a person who commits a violation of Subsection (2), a court may order the person~~
- 18038 ~~to remove and destroy any data collected by the person in the commission of the~~
- 18039 ~~violation of Subsection (2).]~~
- 18040 ~~[(5) Privacy violation is a class B misdemeanor.]~~
- 18041 (6) A property owner has an expectation of property privacy regarding characteristics, data,
- 18042 or information pertaining to the owner's property that:
- 18043 (a) is not immediately apparent through routine visual observation of the property; and
- 18044 (b) requires ground-penetrating technology to detect, observe, measure, map, or
- 18045 otherwise capture information or data about the property or characteristics of the
- 18046 property.
- 18047 ~~[(6)]~~ (7)(a) This section does not apply to lawful practices of:
- 18048 (i) a law enforcement agency; or
- 18049 (ii) another government entity.
- 18050 (b) Subsection (2)(d) does not apply to a land surveyor if:

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18051 (i) the land surveyor is performing a survey service in good faith pursuant to a bona
18052 fide contract; and

18053 (ii) for any data pertaining to property not owned by a party to the contract described
18054 in Subsection [~~(6)(b)(i)~~] (7)(b)(i) that is captured incidentally by the land
18055 surveyor, the land surveyor:

18056 (A) does not share, publish, sell, or distribute any incidentally captured data
18057 pertaining to property that is not relevant to the contract described in
18058 Subsection [~~(6)(b)(i)~~] (7)(b)(i); and

18059 (B) upon completion of the contract, deletes or destroys any data pertaining to
18060 property that is not the subject of the contract.

18061 (8)(a) A person, or the heirs of a deceased person, who has been injured by a violation
18062 of this section may bring an action against the actor who committed the violation.

18063 (b) If in the action described in Subsection (8)(a) the court finds the defendant is
18064 violating or has violated any of the provisions of this section, the court shall enjoin
18065 the defendant from a continued violation.

18066 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
18067 damages are alleged and proved, the plaintiff in the action is entitled to recover from
18068 the defendant the actual damages sustained, if any, in addition to injunctive relief.

18069 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
18070 award of reasonable attorney fees.

18071 (e) Exemplary damages may be awarded when the violation is found to be malicious.

18072 Section 373. Section **76-12-303**, which is renumbered from Section 76-9-403 is renumbered
18073 and amended to read:

18074 **[76-9-403]76-12-303 . Unlawful interception or disclosure of a private communication.**

18075 (1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

18076 (2) [A person commits communication abuse if, except as authorized by law, he] An actor
18077 commits unlawful interception or disclosure of a private communication if, except as
18078 authorized by law, the actor:

18079 (a) [Intercepts] intercepts, without the consent of the sender or receiver, a message by
18080 telephone, telegraph, letter, or other means of communicating privately; [this
18081 paragraph does not extend to:] or

18082 [i] ~~Overhearing of messages through a regularly installed instrument on a telephone~~
18083 ~~party line or on an extension; or]~~

18084 [ii] ~~Interception by the telephone company or subscriber incident to enforcement of~~
18085 ~~regulations limiting use of the facilities or to other normal operation and use; or]~~

18086 (b) ~~[Divulges-] divulges,~~ without consent of the sender or receiver, the existence or
18087 contents of ~~[any such] a message described in Subsection (2)(a),~~ if the actor:

18088 (i) ~~knows that the message described in Subsection (2)(a) was illegally intercepted;~~
18089 ~~or~~

18090 (ii) ~~[if he-]learned of the message described in Subsection (2)(a) in the course of~~
18091 ~~employment with an agency engaged in [transmitting it] the transmission of the~~
18092 ~~message.~~

18093 ~~[(2)] (3) [Communication abuse-] A violation of Subsection (2) is a class B misdemeanor.~~

18094 (4) Subsection (2)(a) does not apply to:

18095 (a) overhearing a message through a regularly installed instrument on a telephone party
18096 line or on an extension; or

18097 (b) intercepting a message by a telephone company or subscriber incident to
18098 enforcement of regulations limiting use of the facilities or to other normal operation
18099 and use.

18100 (5)(a) A person, or the heirs of a deceased person, who has been injured by a violation
18101 of this section may bring an action against the actor who committed the violation.

18102 (b) If in the action described in Subsection (5)(a) the court finds the defendant is
18103 violating or has violated any of the provisions of this section, the court shall enjoin
18104 the defendant from a continued violation.

18105 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
18106 damages are alleged and proved, the plaintiff in the action is entitled to recover from
18107 the defendant the actual damages sustained, if any, in addition to injunctive relief.

18108 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
18109 award of reasonable attorney fees.

18110 (e) Exemplary damages may be awarded when the violation is found to be malicious.

18111 Section 374. Section **76-12-304**, which is renumbered from Section 76-9-407 is renumbered
18112 and amended to read:

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18113 **[76-9-407]76-12-304 . Unlawful use of another's personal identity in an advertisement.**

18114 (1) [The definitions in Section-] Terms defined in Sections 45-3-2, 76-1-101.5, 76-12-101,
18115 and 76-12-301 apply to this section.

18116 (2) [Any person is guilty of a class B misdemeanor who-] An actor commits unlawful use of
18117 another's personal identity in an advertisement if the actor knowingly or intentionally
18118 causes the publication of an advertisement in which the personal identity of an
18119 individual is used in a manner [which] that expresses or implies that the individual
18120 approves, endorses, has endorsed, or will endorse the specific subject matter of the
18121 advertisement without the consent for such use by the individual.

18122 (3) A violation of Subsection (2) is a class B misdemeanor.

18123 ~~[(3)]~~ (4) It is an affirmative defense that the [person causing] actor who caused the
18124 publication of the advertisement reasonably believed that the [person] individual whose
18125 personal identity was to be used had consented to [its] the use of the individual's personal
18126 identity.

18127 ~~[(4)]~~ (5)(a) Upon conviction of an offense under this section, unless waived by the
18128 victim, the court shall order that, within 30 days of the conviction, the [person] actor
18129 convicted shall issue a public apology or retraction to whomever received the
18130 advertisement.

18131 (b) The apology or retraction described in Subsection (5)(a) shall be of similar size and
18132 placement as the original advertisement.

18133 ~~[(5)]~~ (6) Nothing in this section prohibits a civil action under Title 45, Chapter 3, Abuse of
18134 Personal Identity Act.

18135 (7)(a) A person, or the heirs of a deceased person, who has been injured by a violation
18136 of this section may bring an action against the actor who committed the violation.

18137 (b) If in the action described in Subsection (7)(a) the court finds the defendant is
18138 violating or has violated any of the provisions of this section, the court shall enjoin
18139 the defendant from a continued violation.

18140 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
18141 damages are alleged and proved, the plaintiff in the action is entitled to recover from
18142 the defendant the actual damages sustained, if any, in addition to injunctive relief.

18143 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an

18144 award of reasonable attorney fees.

18145 (e) Exemplary damages may be awarded when the violation is found to be malicious.

18146 Section 375. Section **76-12-305**, which is renumbered from Section 76-9-408 is renumbered
18147 and amended to read:

18148 ~~[76-9-408]~~ **76-12-305 . Unlawful installation of a tracking device.**

18149 (1)(a) As used in this section:

18150 [(a)] (i) "Motor vehicle" means the same as that term is defined in Subsection
18151 41-12a-103(4).

18152 [(b)] (ii) "Private investigator" means an individual who is:

18153 [(i)] (A) licensed as a private investigator under Title 53, Chapter 9, Private
18154 Investigator Regulation Act; and

18155 [(ii)] (B) acting in the capacity of a private investigator.

18156 [(c)] (iii) "Protective order" means a protective order, stalking injunction, or
18157 restraining order issued by a court of any jurisdiction.

18158 [(d)] (iv)[(i)] (A) "Tracking device" means a device used for the primary purpose
18159 of revealing the device's location or movement by the transmission or
18160 recording of an electronic signal.

18161 [(ii)] (B) "Tracking device" does not include location technology installed on a
18162 vehicle by the vehicle manufacturer or a commercial vehicle dealer that
18163 transmits electronic signals for the purpose of data collection, if the data
18164 collection is anonymized.

18165 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
18166 section.

18167 (2) Except as provided in Subsection ~~[(3), a person is guilty of]~~ (4), an actor commits
18168 unlawful installation of a tracking device if the [person] actor knowingly installs, or
18169 directs another to install, a tracking device on a motor vehicle owned or leased by
18170 another person, without the permission of the owner or lessee of the vehicle.

18171 (3) A violation of Subsection (2) is a class A misdemeanor.

18172 ~~[(3)]~~ (4) [A person is not guilty of unlawful installation of a tracking device] an actor does
18173 not commit a violation of Subsection (2) if the [person] actor:

18174 (a)(i) is a licensed private investigator installing the tracking device for a legitimate

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- 18175 business purpose; and
- 18176 (ii) installs the tracking device on a motor vehicle that is not:
- 18177 (A) owned or leased by an individual under the protection of a protective order; or
- 18178 (B) operated by an individual under the protection of a protective order who
- 18179 resides with, or is an immediate family member of, the owner or lessee of the
- 18180 motor vehicle; or
- 18181 (b) installs the tracking device pursuant to a court order.
- 18182 [~~(4) Unlawful installation of a tracking device is a class A misdemeanor.~~]
- 18183 (5) This section does not apply to a peace officer, acting in the peace officer's official
- 18184 capacity, who installs a tracking device on a motor vehicle in the course of a criminal
- 18185 investigation or pursuant to a court order.
- 18186 (6) Before installing a tracking device on a motor vehicle under Subsection [~~(3)~~] (4), a
- 18187 private investigator shall request confirmation from a state entity with access to updated
- 18188 protective order records, that:
- 18189 (a) the owner or lessee of the vehicle is not under the protection of a protective order; and
- 18190 (b) an individual who resides with, or is an immediate family member of, the owner or
- 18191 lessee of the motor vehicle is not under the protection of a protective order.
- 18192 (7) On request from a licensed private investigator, a state entity, including a law
- 18193 enforcement agency, with access to protective order records shall confirm or deny the
- 18194 existence of a protective order, disclosing only whether an individual named by the
- 18195 private investigator is under the protection of a protective order issued in any
- 18196 jurisdiction.
- 18197 (8) A private investigator may not disclose the information obtained under Subsection (7) to
- 18198 any person, except as permitted by law.
- 18199 (9) On request from the Bureau of Criminal Identification, a private investigator who
- 18200 installs a tracking device on a motor vehicle shall disclose the purpose of the tracking
- 18201 device to the Bureau of Criminal Identification.
- 18202 (10)(a) A person, or the heirs of a deceased person, who has been injured by a violation
- 18203 of this section may bring an action against the actor who committed the violation.
- 18204 (b) If in the action described in Subsection (10)(a) the court finds the defendant is
- 18205 violating or has violated any of the provisions of this section, the court shall enjoin

- 18206 the defendant from a continued violation.
- 18207 (c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if
- 18208 damages are alleged and proved, the plaintiff in the action is entitled to recover from
- 18209 the defendant the actual damages sustained, if any, in addition to injunctive relief.
- 18210 (d) A finding that the defendant is in violation of this section entitles the plaintiff to an
- 18211 award of reasonable attorney fees.
- 18212 (e) Exemplary damages may be awarded when the violation is found to be malicious.
- 18213 Section 376. Section **76-12-306** is enacted to read:
- 18214 **76-12-306 . Voyeurism.**
- 18215 (1)(a) As used in this section, "sex-designated privacy space" means the same as that
- 18216 term is defined in 76-12-309.
- 18217 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
- 18218 section.
- 18219 (2) An actor commits voyeurism if:
- 18220 (a) the actor views, or attempts to view, an individual, with or without the use of an
- 18221 instrumentality:
- 18222 (i) with the intent of viewing any portion of the individual's body regarding which the
- 18223 individual has a reasonable expectation of privacy, whether or not that portion of
- 18224 the body is covered with clothing;
- 18225 (ii) without the knowledge or consent of the individual; and
- 18226 (iii) under circumstances in which the individual has a reasonable expectation of
- 18227 privacy; and
- 18228 (b) the actor's conduct described in Subsection (2)(a) does not amount to a violation of
- 18229 Section 76-12-307, Recorded or photographed voyeurism.
- 18230 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
- 18231 misdemeanor.
- 18232 (b) A violation of Subsection (2) is a class A misdemeanor if the violation is committed:
- 18233 (i) against a child under 14 years old;
- 18234 (ii) in a sex-designated privacy space that is not designated for individuals of the
- 18235 actor's sex; or
- 18236 (iii) while also committing the offense of:

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- 18237 (A) criminal trespass in a sex-designated changing room under Subsection
18238 76-6-206(2)(d);
18239 (B) lewdness under Section 76-5-419;
18240 (C) lewdness involving a child under Section 76-5-420; or
18241 (D) loitering in a privacy space under Section 76-12-309.

18242 (4) For purposes of this section, an individual has a reasonable expectation of privacy
18243 within a public restroom.

18244 Section 377. Section **76-12-307**, which is renumbered from Section 76-9-702.7 is renumbered
18245 and amended to read:

18246 ~~[76-9-702.7]~~ **76-12-307 . Recorded or photographed voyeurism.**

18247 (1)(a) As used in this section, "sex-designated privacy space" means the same as that
18248 term is defined in 76-12-309.

18249 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
18250 section.

18251 (2) ~~[A person is guilty of voyeurism who-]~~ An actor commits recorded or photographed
18252 voyeurism if the actor intentionally uses any type of technology to secretly or
18253 surreptitiously record, by video, photograph, or other means, an individual:

18254 (a) for the purpose of viewing any portion of the individual's body regarding which the
18255 individual has a reasonable expectation of privacy, whether or not that portion of the
18256 body is covered with clothing;

18257 (b) without the knowledge or consent of the individual; and

18258 (c) under circumstances in which the individual has a reasonable expectation of privacy.

18259 ~~[(2)]~~ (3)(a) Except as provided in Subsection ~~[(2)(b)]~~ (3)(b), a violation of Subsection [
18260 ~~(+)]~~ (2) is a class A misdemeanor.

18261 (b) ~~[The following is a-]~~ A violation of Subsection (2) is a third degree felony if the
18262 violation is committed:

18263 (i) ~~[a violation of Subsection (1) committed-]~~ against a child under 14 years~~[of age-]~~
18264 old;

18265 (ii) in a sex-designated privacy space that is not designated for individuals of the
18266 actor's sex; or

18267 ~~[(ii)]~~ (iii) ~~[a violation of Subsection (1) committed-]~~ while also committing the offense

- 18268 of:
- 18269 (A) criminal trespass in a sex-designated changing room under Subsection
- 18270 76-6-206(2)(d);
- 18271 (B) lewdness under Section ~~[76-9-702]~~ 76-5-419;
- 18272 (C) lewdness involving a child under Section ~~[76-9-702.5]~~ 76-5-420; or
- 18273 (D) loitering in a privacy space under Section ~~[76-9-702.8; or]~~ 76-12-309.
- 18274 [(iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in
- 18275 Section 76-9-702.8, that is not designated for individuals of the actor's sex.]
- 18276 [(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital
- 18277 format, obtained under Subsection (1) by transmission, display, or dissemination is a
- 18278 third degree felony, except that if the violation of this Subsection (3) includes images of
- 18279 a child under 14 years of age, the violation is a second degree felony.]
- 18280 [(4) A person is guilty of voyeurism who, under circumstances not amounting to a
- 18281 violation of Subsection (1), views or attempts to view an individual, with or without the
- 18282 use of any instrumentality:]
- 18283 [(a) with the intent of viewing any portion of the individual's body regarding which the
- 18284 individual has a reasonable expectation of privacy, whether or not that portion of the
- 18285 body is covered with clothing;]
- 18286 [(b) without the knowledge or consent of the individual; and]
- 18287 [(c) under circumstances in which the individual has a reasonable expectation of privacy.]
- 18288 [(5)(a) Except as provided in Subsection (5)(b), a violation of Subsection (4) is a class B
- 18289 misdemeanor.]
- 18290 [(b) The following is a class A misdemeanor:]
- 18291 [(i) a violation of Subsection (4) committed against a child under 14 years of age is a class
- 18292 A misdemeanor;]
- 18293 [(ii) a violation of Subsection (4) committed while also committing the offense of:]
- 18294 [(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)
- (d);]
- 18295 [(B) lewdness under Section 76-9-702;]
- 18296 [(C) lewdness involving a child under Section 76-9-702.5; or]
- 18297 [(D) loitering in a privacy space under Section 76-9-702.8; or]

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18298 [(iii) a violation of Subsection (4) committed in a sex-designated privacy space, as defined
18299 in Section 76-9-702.8, that is not designated for individuals of the actor's sex.]

18300 [(6)] (4) For purposes of this section, an individual has a reasonable expectation of privacy
18301 within a public restroom.

18302 Section 378. Section **76-12-308** is enacted to read:

18303 **76-12-308 . Distribution of images obtained through voyeurism.**

18304 (1)(a) As used in this section, "image" includes print, electronic, magnetic, or digital
18305 format.

18306 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this
18307 section.

18308 (2) An actor commits distribution of images obtained through voyeurism if the actor
18309 distributes or sells an image obtained by conduct in violation of Section 76-12-207,
18310 Recorded or photographed voyeurism, by transmission, display, or dissemination.

18311 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
18312 degree felony.

18313 (b) A violation of Subsection (2) is a second degree felony if the image is of a child
18314 under 14 years old.

18315 Section 379. Section **76-12-309**, which is renumbered from Section 76-9-702.8 is renumbered
18316 and amended to read:

18317 **[76-9-702.8]76-12-309 . Loitering in a privacy space.**

18318 (1)(a) As used in this section:

18319 [(a)] (i) "Privacy space" means the following in which an individual has a reasonable
18320 expectation of privacy:

18321 [(i)] (A) a restroom or any other space that includes a toilet;

18322 [(ii)] (B) a dressing room, fitting room, locker room, changing facility, or any other
18323 space designated for multiple individuals to dress or undress within the same
18324 space; or

18325 [(iii)] (C) any room or space that includes a shower.

18326 [(b)] (ii) "Sex-designated" means that a facility, program, or event is designated
18327 specifically for males or females and not the opposite sex.

18328 (b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this

18329 section.

18330 (2) An actor commits [~~the offense of unlawfully~~]loitering in a privacy space if the actor
18331 intentionally or knowingly remains unlawfully in a privacy space.

18332 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
18333 misdemeanor.

18334 (b) A violation of Subsection [~~(4)~~] (2) is a class A misdemeanor if the actor commits the
18335 offense:

18336 (i) while also committing the offense of:

18337 (A) criminal trespass in a sex-designated changing room under Subsection
18338 76-6-206(2)(d);

18339 (B) lewdness under Section [~~76-9-702~~] 76-5-419;

18340 (C) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420; or

18341 (D) voyeurism under Section [~~76-9-702.7~~] 76-12-306; [~~or~~]

18342 (E) recorded or photographed voyeurism under Section 76-12-307; or

18343 (F) distribution of images obtained through voyeurism under Section 76-12-308;

18344 or

18345 (ii) in a sex-designated privacy space that is not designated for individuals of the
18346 actor's sex.

18347 Section 380. Section **76-12-401**, which is renumbered from Section 76-10-601 is renumbered
18348 and amended to read:

18349 **Part 4. Offenses Involving Charitable Solicitations**

18350 **~~76-10-601~~76-12-401 . Definitions.**

18351 As used in this part:

18352 (1) "Person" means [~~any~~] an individual, organization, group, association, partnership,
18353 corporation, or any combination of [~~them;~~] an individual, organization, group,
18354 association, partnership, or corporation.

18355 (2)(a) "Professional fund raiser" means [~~any~~] a person:

18356 (i) who, for compensation or any other consideration, plans, conducts, or manages in
18357 this state, the solicitation of contributions for or on behalf of [~~any~~] a charitable
18358 organization or any other person[~~;~~] ; or

18359 (ii) who engages in the business of, or holds [~~himself~~] the person's self out to persons

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18360 in this state as, independently engaged in the business of soliciting contributions
18361 for such purpose[, but shall not include a bona fide officer or employee of a
18362 charitable organization;] .

18363 (b) "Professional fund raiser" does not include a bona fide officer or employee of a
18364 charitable organization.

18365 (3) "Professional solicitor" means [any] a person who is employed or retained for
18366 compensation by a professional fund raiser to solicit contributions in this state for
18367 charitable purposes[;] .

18368 (4) "Charitable organization" means [any] an organization that is benevolent, philanthropic,
18369 patriotic, or eleemosynary or one purporting to be [such;] benevolent, philanthropic,
18370 patriotic, or eleemosynary.

18371 (5) "Contribution" means the promise or grant of [any]-money or property of any kind or
18372 value.

18373 Section 381. Section **76-12-402**, which is renumbered from Section 76-10-602 is renumbered
18374 and amended to read:

18375 **[76-10-602] 76-12-402 . Unlawful use of a person's name for soliciting contributions.**

18376 (1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this section.

18377 (2) An actor commits unlawful use of a person's name for soliciting contributions if the
18378 actor:

18379 (a) [~~No-~~] is a charitable organization, professional fund raiser, or professional
18380 solicitor, seeking to raise funds for a charitable [purposes,] purpose; and

18381 (b) [~~shall use~~] uses the name of any other person for the purpose of soliciting [
18382 ~~contributions,] a charitable contribution in this state[;] without the written consent of~~
18383 ~~the person[; provided that this section shall not apply to religious corporations or~~
18384 ~~organizations, charities, agencies, and organizations operated, supervised, or~~
18385 ~~controlled by or in connection with a religious corporation or organization].~~

18386 (3) A violation of Subsection (2) is a class B misdemeanor.

18387 (4) This section does not apply to:

18388 (a) a religious corporation, organization, charity, or agency; or

18389 (b) an organization operated, supervised, or controlled by or in connection with a
18390 religious corporation or organization.

18391 Section 382. Section **76-12-403**, which is renumbered from Section 76-10-603 is renumbered
18392 and amended to read:

18393 **[76-10-603]76-12-403 . Unlawful use of a person's name as a solicitation endorsement.**

18394 (1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this
18395 section.

18396 (2) ~~[It is a violation of this part to use]~~ An actor commit unlawful use of a person's name as
18397 a solicitation endorsement if, without written consent[;] :

18398 (a) the actor uses the name of a person ~~[for the purpose of soliciting contributions if the~~
18399 ~~person's name is listed]~~ on any stationery, advertisement, brochure, or
18400 correspondence of a charitable organization[;] for the purpose of soliciting
18401 contributions; or

18402 (b) ~~[his name is listed or referred to]~~ the actor lists or refers to the person's name as [one]
18403 a person who has contributed to, sponsored, or endorsed the charitable organization
18404 or ~~[its]~~ the charitable organization's activities.

18405 (3) A violation of Subsection (2) is a class B misdemeanor.

18406 Section 383. Section **76-13-101** is enacted to read:

18407 **CHAPTER 13. OFFENSES INVOLVING CRUELTY TO ANIMALS**

18408 **Part 1. General Provisions**

18409 **76-13-101 . Definitions.**

18410 Reserved.

18411 Section 384. Section **76-13-102**, which is renumbered from Section 76-9-305 is renumbered
18412 and amended to read:

18413 **[76-9-305]76-13-102 . Officer's authority to take possession of an animal -- Lien for care --**
18414 **Humane destruction.**

18415 (1) ~~[Any]~~ Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

18416 (2) A law enforcement officer may take possession of [any animals] an animal being treated
18417 cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for [
18418 them] the animal or, upon permission from the owner, may destroy ~~[them]~~ the animal.

18419 ~~[(2)]~~ (3) ~~[Officers caring for animals pursuant to]~~

18420 (a) An officer carrying for an animal under this section [have] has a lien for the

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18421 reasonable value of the care ~~[and/or destruction]~~ provided to the animal and, if
18422 applicable, the reasonable value for the destruction of the animal.

18423 (b) ~~[Any]~~ A court, upon proof that the owner has been notified at least five days earlier
18424 of the lien and amount due, ~~[at least five days prior,]~~shall order the animal sold at
18425 public auction or destroyed.

18426 ~~[(3)]~~ (4) ~~[Any]~~

18427 (a) A law enforcement officer may humanely destroy ~~[any]~~ an animal found suffering
18428 past recovery for any useful purpose.

18429 (b) Before destroying the animal under Subsection (4)(a), the officer shall obtain:

18430 (i) the judgment ~~[to the effect]~~ of a veterinarian ~~[,]~~ or of two reputable citizens called
18431 by ~~[him]~~ the officer to view the animal in ~~[his]~~ the officer's presence, of the
18432 animal's nonrecoverable condition; or

18433 (ii) ~~[shall obtain]~~ consent to the destruction from the owner of the animal.

18434 Section 385. Section **76-13-103**, which is renumbered from Section 76-9-301.6 is renumbered
18435 and amended to read:

18436 ~~[76-9-301.6]~~ **76-13-103 . Officer's authority at a dog fighting exhibition -- Authority to arrest**
18437 **and take possession of dogs and property.**

18438 (1) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

18439 (2) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may
18440 enter any place, building, or tenement where an exhibition of dog fighting is occurring,
18441 or where preparations are being made for such an exhibition and, without a warrant,
18442 arrest all persons present.

18443 ~~[(2)]~~ (3)(a) Notwithstanding the provisions of Section ~~[76-9-305]~~ 76-13-102, Officer's
18444 authority to take possession of an animal, any authorized officer who makes an arrest
18445 under ~~[Subsection (1)]~~ Subsection (2) may lawfully take possession of all dogs,
18446 paraphernalia, implements, or other property or things used or employed, or to be
18447 employed, in an exhibition of dog fighting prohibited by Subsection ~~[76-9-301(2)(e)]~~
18448 76-13-202(2)(e) or Section ~~[76-9-301.4]~~ 76-13-205, Dog fighting.

18449 (b) The officer, at the time of the taking of property pursuant to Subsection ~~[(2)(a)]~~ (3)(a),
18450 shall state ~~[his]~~ the officer's name and provide other identifying information to the
18451 person in charge of the dogs or property taken.

18452 [(3)] (4)(a) After taking possession of dogs, paraphernalia, implements, or other property
18453 or things under Subsection [(2)] (3), the officer shall file an affidavit with the judge or
18454 magistrate before whom a complaint has been made against any person arrested
18455 under this section.

18456 (b) The affidavit shall include:

- 18457 (i) the name of the person charged in the complaint;
- 18458 (ii) a description of all property taken;
- 18459 (iii) the time and place of the taking of the property;
- 18460 (iv) the name of the person from whom the property was taken;
- 18461 (v) the name of the person who claims to own the property, if known; and
- 18462 (vi) a statement that the officer has reason to believe and believes that the property
18463 taken was used or employed, or was to be used or employed, in violation of
18464 Section [76-9-301 or 76-9-301.1] 76-13-202, 76-13-203, 76-13-204, or 76-13-205,
18465 and the grounds for the belief.

18466 [(4)] (5)(a) The officer shall deliver the confiscated property to the judge or magistrate
18467 who shall, by order, place the property in the custody of the officer or any other
18468 person designated in the order, and that person shall keep the property until
18469 conviction or final discharge of the person against whom the complaint was made.

18470 (b) The person designated in Subsection [(4)(a)] (5)(a) shall assume immediate custody
18471 of the property, and retain the property until further order of the court.

18472 (c) Upon conviction of the person charged, all confiscated property shall be forfeited and
18473 destroyed or otherwise disposed of, as the court may order.

18474 (d) If the person charged is acquitted or discharged without conviction, the court shall,
18475 on demand, order the property to be returned to its owner.

18476 Section 386. Section **76-13-104**, which is renumbered from Section 76-9-301.7 is renumbered
18477 and amended to read:

18478 **[76-9-301.7] 76-13-104 . Enhanced penalties for cruelty to animal offenses.**

18479 (1)(a) As used in this section, "conviction" means a conviction by plea or by verdict,
18480 including a plea of guilty or no contest that is held in abeyance under Title 77,
18481 Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is,
18482 subsequently reduced or dismissed in accordance with the plea in abeyance

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- 18483 agreement.
- 18484 (b) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.
- 18485 (2) Except as provided in Subsection (4), ~~[a person]~~ an actor who commits ~~[any]~~ a violation
- 18486 of Section ~~[76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4)]~~ 76-13-202,
- 18487 76-13-203, 76-13-206, or 76-13-208 within the state and on at least one previous
- 18488 occasion has been convicted of violating Section ~~[76-9-301, Section 76-9-301.5, or~~
- 18489 ~~Subsection 76-9-301.1(4)]~~ 76-13-202, 76-13-203, 76-13-206, or 76-13-208 shall be
- 18490 subject to an enhanced penalty as provided in Subsection (3).
- 18491 (3) The enhanced degree of offense for offenses committed under this section are:
- 18492 (a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and
- 18493 (b) if the offense is a class B misdemeanor, it is a class A misdemeanor.
- 18494 (4) The penalty enhancements described in this section do not apply to a conviction for the
- 18495 offense described in ~~[Subsection 76-9-301(6)]~~ Section 76-13-204, Torturing a companion
- 18496 animal.

18497 Section 387. Section **76-13-201** is enacted to read:

18498 **Part 2. Cruelty to Animal Offenses**

18499 **76-13-201 . Definitions.**

18500 Reserved.

18501 Section 388. Section **76-13-202**, which is renumbered from Section 76-9-301 is renumbered

18502 and amended to read:

18503 **~~76-9-301~~76-13-202 . Cruelty to an animal.**

18504 (1)(a) As used in this section:

18505 ~~[(a)]~~ ~~(i)~~~~(i)]~~ ~~(A)~~ "Abandon" means to intentionally deposit, leave, or drop off any

18506 live animal:

18507 ~~[(A)]~~ ~~(I)~~ without providing for the care of that animal, in accordance with

18508 accepted animal husbandry practices or customary farming practices; or

18509 ~~[(B)]~~ ~~(II)~~ in a situation where conditions present an immediate, direct, and

18510 serious threat to the life, safety, or health of the animal.

18511 ~~[(ii)]~~ ~~(B)~~ "Abandon" does not include returning wildlife to its natural habitat.

18512 ~~[(b)]~~ ~~(ii)~~~~(i)]~~ ~~(A)~~ "Animal" means, except as provided in Subsection ~~[(1)(b)(ii)]~~

18513 (1)(a)(ii)(B), a live, nonhuman vertebrate creature.

- 18514 [(ii)] (B) "Animal" does not include:
- 18515 [(A)] (I) a live, nonhuman vertebrate creature, if:
- 18516 [(F)] (Aa) the conduct toward the creature, and the care provided to the
- 18517 creature, is in accordance with accepted animal husbandry practices; and
- 18518 [(H)] (Bb) the creature is:
- 18519 [(Aa)] (Ii) owned or kept by a zoological park that is accredited by, or a
- 18520 member of, the American Zoo and Aquarium Association;
- 18521 [(Bb)] (IIii) kept, owned, or used for the purpose of training hunting dogs
- 18522 or raptors; or
- 18523 [(Ce)] (IIIiii) temporarily in the state as part of a circus or traveling
- 18524 exhibitor licensed by the United States Department of Agriculture
- 18525 under 7 U.S.C. Sec. 2133;
- 18526 [(B)] (II) a live, nonhuman vertebrate creature that is owned, kept, or used for
- 18527 rodeo purposes, if the conduct toward the creature, and the care provided to
- 18528 the creature, is in accordance with accepted rodeo practices;
- 18529 [(C)] (III) livestock, if the conduct toward the creature, and the care provided to
- 18530 the creature, is in accordance with accepted animal husbandry practices or
- 18531 customary farming practices; or
- 18532 [(D)] (IV) wildlife, as defined in Section 23A-1-101, including protected and
- 18533 unprotected wildlife, if the conduct toward the wildlife is in accordance
- 18534 with lawful hunting, fishing, or trapping practices or other lawful practices.
- 18535 [(e)] "~~Companion animal~~" means ~~an animal that is a domestic dog or a domestic cat.~~
- 18536 [(f)] (iii) "Custody" means ownership, possession, or control over an animal.
- 18537 [(e)] (iv) "Legal privilege" means an act that:
- 18538 [(i)] (A) is authorized by state law, including rules under Title 23A, Wildlife
- 18539 Resources Act; and
- 18540 [(ii)] (B) is not in violation of a local ordinance.
- 18541 [(f)] (v) "Livestock" means:
- 18542 [(i)] (A) domesticated:
- 18543 [(A)] (I) cattle;
- 18544 [(B)] (II) sheep;

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- 18545 [(C)] (III) goats;
- 18546 [(D)] (IV) turkeys;
- 18547 [(E)] (V) swine;
- 18548 [(F)] (VI) equines;
- 18549 [(G)] (VII) camelidae;
- 18550 [(H)] (VIII) ratites; or
- 18551 [(I)] (IX) bison;
- 18552 [(ii)] (B) domesticated elk, as defined in Section 4-39-102;
- 18553 [(iii)] (C) a livestock guardian dog, as defined in Section 76-6-111; or
- 18554 [(iv)] (D) any domesticated nonhuman vertebrate creature, domestic furbearer, or
- 18555 domestic poultry, raised, kept, or used for agricultural purposes.
- 18556 [(g)] (vi) "Necessary food, water, care, or shelter" means the following, taking into
- 18557 account the species, age, and physical condition of the animal:
- 18558 [(i)] (A) appropriate and essential food and water;
- 18559 [(ii)] (B) adequate protection, including appropriate shelter, against extreme
- 18560 weather conditions; and
- 18561 [(iii)] (C) other essential care.
- 18562 [(h)] (vii) "Torture" means intentionally or knowingly causing or inflicting extreme
- 18563 physical pain to an animal in an especially heinous, atrocious, cruel, or
- 18564 exceptionally depraved manner.
- 18565 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
- 18566 section.
- 18567 (2) Except as provided in Subsection ~~[(4) or (6)] (4)~~, ~~[a person is guilty of]~~ an actor commits
- 18568 cruelty to an animal if the ~~[person]~~ actor, without legal privilege to do so, intentionally,
- 18569 knowingly, recklessly, or with criminal negligence:
- 18570 (a) fails to provide necessary food, water, care, or shelter for an animal in the ~~[person's]~~
- 18571 actor's custody;
- 18572 (b) abandons an animal in the ~~[person's]~~ actor's custody;
- 18573 (c) injures an animal;
- 18574 (d) causes ~~[any]~~ an animal, not including a dog or game fowl, to fight with another
- 18575 animal of like kind for amusement or gain; or

- 18576 (e) causes [any] an animal, including a dog or game fowl, to fight with a different kind of
18577 animal or creature for amusement or gain.
- 18578 (3) [~~Except as provided in Section 76-9-301.7, a~~] A violation of Subsection (2) is:
18579 (a) a class B misdemeanor if committed intentionally or knowingly; [~~and~~] or
18580 (b) a class C misdemeanor if committed recklessly or with criminal negligence.
- 18581 (4) If an actor's conduct in violation of this section also constitutes a violation of Section
18582 76-13-203, Aggravated cruelty to an animal, or Section 76-13-204, Torturing a
18583 companion animal, the actor's conduct shall be prosecuted under either Section
18584 76-13-203 or 76-13-204 as applicable.[~~A person is guilty of aggravated cruelty to an~~
18585 ~~animal if the person:~~]
18586 [(a) ~~tortures an animal;~~]
18587 [(b) ~~administers, or causes to be administered, poison or a poisonous substance to an~~
18588 ~~animal; or~~]
18589 [(c) ~~kills an animal or causes an animal to be killed without having a legal privilege to~~
18590 ~~do so.~~]
- 18591 [(5) ~~Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection~~
18592 ~~(4) is:~~]
18593 [(a) ~~a class A misdemeanor if committed intentionally or knowingly;~~]
18594 [(b) ~~a class B misdemeanor if committed recklessly; and~~]
18595 [(c) ~~a class C misdemeanor if committed with criminal negligence.~~]
- 18596 [(6) ~~A person is guilty of a third degree felony if the person intentionally or knowingly~~
18597 ~~tortures a companion animal.~~]
- 18598 [(7)] (5) It is a defense to prosecution under this section that the conduct of the actor
18599 towards the animal was:
18600 (a) by a licensed veterinarian using accepted veterinary practice;
18601 (b) directly related to bona fide experimentation for scientific research, provided that if
18602 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
18603 unless directly necessary to the veterinary purpose or scientific research involved;
18604 (c) permitted under Section 18-1-3;
18605 (d) by[~~a person~~] an actor who humanely destroys [any] an animal found suffering past
18606 recovery for any useful purpose; or

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18607 (e) by ~~[a person]~~ an actor who humanely destroys ~~[any]~~ an apparently abandoned animal
18608 found on the ~~[person's]~~ actor's property.

18609 ~~[(8)]~~ (6) For purposes of Subsection ~~[(7)(d)]~~ (5)(d), before destroying the suffering animal,
18610 the ~~[person]~~ actor who is not the owner of the animal shall obtain:

- 18611 (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
- 18612 (b) the judgment of two other persons called by the ~~[person]~~ actor to view the
18613 unrecoverable condition of the animal in the ~~[person's]~~ actor's presence;
- 18614 (c) the consent from the owner of the animal to the destruction of the animal; or
- 18615 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the [
18616 ~~person's]~~ actor's own observation, if the ~~[person]~~ actor is in a location or circumstance
18617 where the ~~[person]~~ actor is unable to contact another person.

18618 ~~[(9)]~~ (7) This section does not affect or prohibit:

- 18619 (a) the training, instruction, and grooming of animals, if the methods used are in
18620 accordance with accepted animal husbandry practices or customary farming practices;
- 18621 (b) the use of an electronic locating or training collar by the owner of an animal for the
18622 purpose of lawful animal training, lawful hunting practices, or protecting against loss
18623 of that animal; or
- 18624 (c) the lawful hunting of, fishing for, or trapping of, wildlife.

18625 ~~[(10)]~~ (8) County and municipal governments may not prohibit the use of an electronic
18626 locating or training collar.

18627 ~~[(11)]~~ (9) Upon conviction under this section, the court may in its discretion, in addition to
18628 other penalties:

- 18629 (a) order the defendant to be evaluated to determine the need for psychiatric or
18630 psychological counseling, to receive counseling as the court determines to be
18631 appropriate, and to pay the costs of the evaluation and counseling;
- 18632 (b) require the defendant to forfeit any rights the defendant has to the animal subjected
18633 to a violation of this section and to repay the reasonable costs incurred by any person
18634 or agency in caring for each animal subjected to violation of this section;
- 18635 (c) order the defendant to no longer possess or retain custody of any animal, as specified
18636 by the court, during the period of the defendant's probation or parole or other period
18637 as designated by the court; and

18638 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
18639 county or municipal animal control agency or an animal welfare agency registered
18640 with the state to be sold at public auction or humanely destroyed.

18641 ~~[(12)]~~ (10) This section does not prohibit the use of animals in lawful training.

18642 ~~[(13)]~~ (11) A veterinarian who, acting in good faith, reports a violation of this section to law
18643 enforcement may not be held civilly liable for making the report.

18644 Section 389. Section **76-13-203** is enacted to read:

18645 **76-13-203 . Aggravated cruelty to an animal.**

18646 (1)(a) As used in this section:

18647 (i) "Animal" means the same as that term is defined in Section 76-13-202.

18648 (ii) "Custody" means the same as that term is defined in Section 76-13-202.

18649 (iii) "Legal privilege" means the same as that term is defined in Section 76-13-202.

18650 (iv) "Torture" means the same as that term is defined in Section 76-13-202.

18651 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
18652 section.

18653 (2) Except as provided in Subsection (4), an actor commits aggravated cruelty to an animal
18654 if the actor:

18655 (a) tortures an animal;

18656 (b) administers, or causes to be administered, poison or a poisonous substance to an
18657 animal; or

18658 (c) kills an animal or causes an animal to be killed without having a legal privilege to do
18659 so.

18660 (3) A violation of Subsection (2) is:

18661 (a) a class A misdemeanor if committed intentionally or knowingly;

18662 (b) a class B misdemeanor if committed recklessly; or

18663 (c) a class C misdemeanor if committed with criminal negligence.

18664 (4) If an actor's conduct in violation of this section also constitutes a violation of Section
18665 76-13-204, Torturing a companion animal, the actor's conduct shall be prosecuted under
18666 Section 76-13-204.

18667 (5) It is a defense to prosecution under this section that the conduct of the actor towards the
18668 animal was:

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- 18669 (a) performed by a licensed veterinarian using accepted veterinary practice;
18670 (b) directly related to bona fide experimentation for scientific research, provided that if
18671 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
18672 unless directly necessary to the veterinary purpose or scientific research involved;
18673 (c) permitted under Section 18-1-3;
18674 (d) performed by an actor who humanely destroys an animal found suffering past
18675 recovery for any useful purpose; or
18676 (e) performed by an actor who humanely destroys an apparently abandoned animal
18677 found on the actor's property.
- 18678 (6) For purposes of Subsection (5)(d), before destroying the suffering animal, an actor who
18679 is not the owner of the animal shall obtain:
- 18680 (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
18681 (b) the judgment of two other individuals called by the actor to view the unrecoverable
18682 condition of the animal in the actor's presence;
18683 (c) the consent from the owner of the animal to the destruction of the animal; or
18684 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the
18685 actor's own observation, if the actor is in a location or circumstance where the actor is
18686 unable to contact another individual.
- 18687 (7) Upon conviction under this section, the court may in the court's discretion, in addition to
18688 other penalties:
- 18689 (a) order the actor to be evaluated to determine the need for psychiatric or psychological
18690 counseling, to receive counseling as the court determines to be appropriate, and to
18691 pay the costs of the evaluation and counseling;
18692 (b) require the actor to forfeit any rights the actor has to the animal subjected to a
18693 violation of this section and to repay the reasonable costs incurred by any person in
18694 caring for each animal subjected to violation of this section;
18695 (c) order the actor to no longer possess or retain custody of any animal, as specified by
18696 the court, during the period of the actor's probation or parole or other period as
18697 designated by the court; and
18698 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
18699 county or municipal animal control agency or an animal welfare agency registered

18700 with the state to be sold at public auction or humanely destroyed.

18701 (8) A veterinarian who, acting in good faith, reports a violation of this section to law
18702 enforcement may not be held civilly liable for making the report.

18703 Section 390. Section **76-13-204** is enacted to read:

18704 **76-13-204 . Torturing a companion animal.**

18705 (1)(a) As used in this section:

18706 (i) "Animal" means the same as that term is defined in Section 76-13-202.

18707 (ii) "Companion animal" means an animal that is a domestic dog or a domestic cat.

18708 (iii) "Custody" means the same as that term is defined in Section 76-13-202.

18709 (iv) "Torture" means the same as that term is defined in Section 76-13-202.

18710 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
18711 section.

18712 (2) An actor commits torturing a companion animal if the actor intentionally or knowingly
18713 tortures a companion animal.

18714 (3) A violation of Subsection (2) is a third degree felony.

18715 (4) It is a defense to prosecution under this section that the conduct of the actor towards the
18716 animal was:

18717 (a) performed by a licensed veterinarian using accepted veterinary practice;

18718 (b) directly related to bona fide experimentation for scientific research, provided that if
18719 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
18720 unless directly necessary to the veterinary purpose or scientific research involved; or

18721 (c) permitted under Section 18-1-3.

18722 (5) Upon conviction under this section, the court may in its discretion, in addition to other
18723 penalties:

18724 (a) order the actor to be evaluated to determine the need for psychiatric or psychological
18725 counseling, to receive counseling as the court determines to be appropriate, and to
18726 pay the costs of the evaluation and counseling;

18727 (b) require the actor to forfeit any rights the actor has to the animal subjected to a
18728 violation of this section and to repay the reasonable costs incurred by any person in
18729 caring for each animal subjected to violation of this section;

18730 (c) order the actor to no longer possess or retain custody of any animal, as specified by

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18731 the court, during the period of the actor's probation or parole or other period as
18732 designated by the court; and

18733 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
18734 county or municipal animal control agency or an animal welfare agency registered
18735 with the state to be sold at public auction or humanely destroyed.

18736 (6) A veterinarian who, acting in good faith, reports a violation of this section to law
18737 enforcement may not be held civilly liable for making the report.

18738 Section 391. Section **76-13-205**, which is renumbered from Section 76-9-301.1 is renumbered
18739 and amended to read:

18740 ~~[76-9-301.1]~~ **76-13-205 . Dog fighting.**

18741 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

18742 (2) ~~[It is unlawful for any person to]~~ An actor commits dog fighting if the actor:

18743 (a) ~~[own, possess, keep, or train]~~ owns, possesses, keeps, or trains a dog with the intent to
18744 engage [it] the dog in an exhibition of fighting with another dog;

18745 (b) ~~[eause]~~ causes a dog to fight with another dog or ~~[eause]~~ causes a dog to injure
18746 another dog for amusement or gain;

18747 (c) ~~[tie, attach, or fasten-]~~ ties, attaches, or fastens any live animal to a machine or device
18748 propelled by any power, for the purpose of causing the animal to be pursued by a
18749 dog; ~~[or]~~

18750 (d) ~~[permit or allow any act which-]~~ permits or allows any act that violates Subsection [
18751 ~~(1)(a), (b), or (e)-]~~ (2)(a), (b), or (c) on any premises under ~~[his]~~ the actor's charge; or

18752 (e) ~~[to control, aid, or abet any such act]~~ controls, aids, or abets any act that violates
18753 Subsection (2)(a), (b), or (c).

18754 ~~[(2)]~~ (3)(a) A violation of Subsection (2) is a third degree felony.

18755 (b) A fine imposed for a violation of Subsection (2) may not exceed \$25,000.

18756 (4) ~~Possession of [any]~~ a breaking stick, treadmill, wheel, hot walker, cat mill, cat walker,
18757 jenni, or other paraphernalia, together with evidence that the paraphernalia is being used
18758 or is intended for use in the unlawful training of a dog to fight with another dog, together
18759 with the possession of any such dog, is prima facie evidence of violation of [Subsections
18760 (1)(b) and (e)] Subsection (2)(b) or (c).

18761 ~~[(3)]~~ A person who violates Subsection (1) is guilty of a third degree felony, and any fine

18762 imposed may not exceed \$25,000.]

18763 [(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at
18764 any place, building, or tenement where preparations are being made for an exhibition of
18765 dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or
18766 any other occurrence of fighting or injury described in this section. A person who
18767 violates this subsection is guilty of a class B misdemeanor.]

18768 (5) Nothing in this section prohibits any of the following:

- 18769 (a) the use of dogs for management of livestock by the owner, [his] the owner's
18770 employees or agents, or any other person in the lawful custody of livestock;
- 18771 (b) the use of dogs for hunting; or
- 18772 (c) the training of dogs or the possession or use of equipment in the training of dogs for
18773 any purpose not prohibited by law.

18774 Section 392. Section **76-13-206** is enacted to read:

18775 **76-13-206 . Attending a dog fight or related activity.**

18776 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

18777 (2) An actor commits attending a dog fight or related activity if the actor knowingly or
18778 intentionally is:

- 18779 (a) present as a spectator at a place, building, or tenement where preparations are being
18780 made for an exhibition of dog fighting;
- 18781 (b) present at a dog fighting exhibition; or
- 18782 (c) present for any other conduct that would be in violation of Section 76-13-205, Dog
18783 fighting.

18784 (3) A violation of Subsection (2) is a class B misdemeanor.

18785 Section 393. Section **76-13-207**, which is renumbered from Section 76-9-301.3 is renumbered
18786 and amended to read:

18787 **[76-9-301.3]76-13-207 . Game fowl fighting.**

18788 (1)(a) As used in this section:

- 18789 [(a)] (i) "Game fowl" means a fowl reared or used for fighting other fowl.
- 18790 [(b)] (ii) "Promote" means to engage in promoting, producing, or staging events or
18791 activities that involve game fowl fighting.

18792 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this

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18793 section.

18794 (2) ~~[It is unlawful for a person to]~~ An actor commits game fowl fighting if the actor:

18795 (a) intentionally ~~[cause]~~ causes a game fowl to fight with or attack another game fowl for
18796 the purpose of entertainment, sport, or contest; or

18797 (b) ~~[promote-]~~ promotes any activity that involves game fowl fighting, including
18798 promoting an activity that is a violation of Subsection (2)(a).

18799 (3) ~~[A person who violates-]~~ A violation of Subsection (2) is~~[- upon conviction, guilty of]:~~

18800 (a) a class B misdemeanor for the first violation;

18801 (b) a class A misdemeanor for the second violation; or

18802 (c) a third degree felony for a third or subsequent violation.

18803 (4) This section does not prohibit the lawful use of livestock by the livestock owner, an
18804 employee or agent of the livestock owner, or a person in the lawful custody of livestock.

18805 Section 394. Section **76-13-208**, which is renumbered from Section 76-9-301.5 is renumbered
18806 and amended to read:

18807 ~~[76-9-301.5]~~ **76-13-208 . Attending an organized animal fighting exhibition.**

18808 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
18809 section.

18810 (2) ~~[It is unlawful for a person to-]~~ An actor commits attending an organized animal fighting
18811 exhibition if the actor is knowingly ~~[be-]~~ present:

18812 (a) as a spectator at any place, building, or tenement where preparations are being made
18813 for an exhibition of the fighting of animals, as prohibited by ~~[Subsections~~

18814 ~~76-9-301(2)(d) and (e);]~~ Subsection 76-13-202(2)(d) or (e); or

18815 (b) ~~[to be present-]~~ at ~~[such]~~ an exhibition prohibited by Subsection 76-13-202(2)(d) or (e),
18816 regardless of whether ~~[any]~~ an entrance fee has been charged.

18817 (3) ~~[A person who violates this section is guilty of-]~~ A violation of Subsection (2) is a class
18818 B misdemeanor.

18819 Section 395. Section **76-13-209**, which is renumbered from Section 76-9-306 is renumbered
18820 and amended to read:

18821 ~~[76-9-306]~~ **76-13-209 . Endangering, injuring, or killing a police service canine.**

18822 (1)(a) As used in this section:

18823 ~~[(a)]~~ (i) "Handler" means a law enforcement officer who is specially trained, and uses

- 18824 a police service canine during the course of the performance of [his] the law
18825 enforcement officer's law enforcement duties.
- 18826 [(b)] (ii) "Police service canine" means:
- 18827 (A) any dog used by a law enforcement agency[~~,-which-~~] that is specially trained
18828 for law enforcement work[~~,-or-~~] ; or
- 18829 (B) any animal contracted to assist a law enforcement agency in the performance
18830 of law enforcement duties.
- 18831 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
18832 section.
- 18833 (2) An actor commits endangering, injuring or killing a police service canine if the actor
18834 intentionally or knowingly:[It is a second degree felony for a person to intentionally or
18835 knowingly cause-]
- 18836 (a) causes the death [tø] of a police service canine[-] ;
- 18837 (b) causes bodily injury to a police service canine;
- 18838 (c) engages in conduct likely to cause bodily injury or death to a police service canine; or
- 18839 (d) lays out, places, or administers any poison, trap, substance, or object that is likely to
18840 produce bodily injury or death to a police service canine.
- 18841 (3)(a) A violation of Subsection (2)(a) is a second degree felony.
- 18842 (b) A violation of Subsection (2)(b), (c), or (d) is a third degree felony.
- 18843 [(3) It is a third degree felony for a person to intentionally or knowingly:]
- 18844 [(a) cause bodily injury to a police service canine;]
- 18845 [(b) engage in conduct likely to cause bodily injury or death to a police service canine; or]
- 18846 [(c) lay out, place, or administer any poison, trap, substance, or object which is likely to
18847 produce bodily injury or death to a police service canine.]
- 18848 [(4) It is a class A misdemeanor for a person to intentionally or knowingly:]
- 18849 [(a) taunt, torment, strike, or otherwise assault a police service canine;]
- 18850 [(b) throw any object or substance at, or in the path of, a police service canine;]
- 18851 [(e) interfere with or obstruct a police service canine, or attempt to, or interfere with the
18852 handler of the canine in a manner that inhibits, restricts, or deprives the handler of
18853 control of the canine;]
- 18854 [(d) release a police service canine from its area of control, such as a vehicle, kennel, or

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- 18855 pen, or trespass in that area; or]
- 18856 [(e) place any food, object, or substance into a police service canine's area of control
- 18857 without the permission of the handler.]
- 18858 [(5)] (4)(a) A police service canine is exempt from quarantine or other animal control
- 18859 ordinances if [it] the police service canine bites any [person] individual while under
- 18860 proper police supervision or routine veterinary care.
- 18861 (b) The law enforcement agency and the [canine's] police service canine's handler shall
- 18862 make the [canine] police service canine available for examination at [any] a reasonable
- 18863 time and shall notify the local health officer if the police service canine exhibits any
- 18864 abnormal behavior.
- 18865 [(6)] (5) In addition to any other penalty, [a person] an actor convicted of a violation of this
- 18866 section is liable for restitution to the owning or employing law enforcement agency or
- 18867 individual owner of the police service canine for the replacement, training, and
- 18868 veterinary costs incurred as a result of the violation of this section.
- 18869 Section 396. Section **76-13-210** is enacted to read:
- 18870 **76-13-210 . Interference with a police service canine.**
- 18871 (1)(a) As used in this section:
- 18872 (i) "Handler" means the same as that term is defined in Section 76-13-209.
- 18873 (ii) "Police service canine" means the same as that term is defined in Section
- 18874 76-13-209.
- 18875 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
- 18876 section.
- 18877 (2) An actor commits interference with a police service canine if the actor intentionally or
- 18878 knowingly:
- 18879 (a) taunts, torments, strikes, or otherwise assaults a police service canine;
- 18880 (b) throws any object or substance at, or in the path of, a police service canine;
- 18881 (c) interferes with or obstructs a police service canine, or attempts to, or interferes with
- 18882 the handler of the police service canine in a manner that inhibits, restricts, or deprives
- 18883 the handler of control of the police service canine;
- 18884 (d) releases a police service canine from the police service canine's area of control, such
- 18885 as a vehicle, kennel, or pen, or trespasses in that area; or

18886 (e) places any food, object, or substance into a police service canine's area of control
18887 without the permission of the handler.

18888 (3) A violation of Subsection (2) is a class A misdemeanor.

18889 (4) In addition to any other penalty, an actor convicted of a violation of this section is liable
18890 for restitution to the owning or employing law enforcement agency or individual owner
18891 of the police service canine for the replacement, training, and veterinary costs incurred
18892 as a result of the violation of this section.

18893 Section 397. Section **76-13-211**, which is renumbered from Section 76-9-307 is renumbered
18894 and amended to read:

18895 **~~76-9-307~~76-13-211 . Injuring, harassing, or endangering a service animal.**

18896 (1)(a) As used in this section:

18897 [(a)] (i) "Disability" [~~has the same meaning as~~] means the same as that term is defined
18898 in Section 26B-6-801.

18899 [(b)] (ii) "Search and rescue dog" means a dog:

18900 [(i)] (A) with documented training to locate [~~persons~~] individuals who are:

18901 [(A)] (I) lost, missing, or injured; or

18902 [(B)] (II) trapped under debris as the result of a natural or man-made event; and

18903 [(ii)] (B) affiliated with an established search and rescue dog organization.

18904 [(e)] (iii) "Service animal" means:

18905 [(i)] (A) a service animal as that term is defined in Section 26B-6-801; or

18906 [(ii)] (B) a search and rescue dog.

18907 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
18908 section.

18909 (2) An actor commits injuring, harassing, or endangering a service animal if the actor:

18910 (a) [~~It is a class A misdemeanor for a person to~~] knowingly, intentionally, or recklessly [
18911 cause] causes substantial bodily injury or death to a service animal[-] ;

18912 [(3)] (b) [~~It is a class A misdemeanor for a person who~~] owns, keeps, harbors, or
18913 exercises control over an animal [to] and knowingly, intentionally, or recklessly [fail]
18914 fails to exercise sufficient control over the animal to prevent [it] the animal from[
18915 causing]:

18916 [(a)] (i) [~~any~~] causing substantial bodily injury to or the death of a service animal; [or]

18948 Section 398. Section **76-13-212**, which is renumbered from Section 76-9-304 is renumbered
18949 and amended to read:

18950 ~~[76-9-304]~~ **76-13-212 . Allowing a vicious animal to go at large.**

18951 (1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

18952 (2) ~~[Any]~~ An actor commits allowing a vicious animal to go at large if:

18953 (a) the actor is an owner of a vicious animal, knowing [its] the animal's propensities, and:

18954 (i) ~~[who]~~ willfully allows [it] the animal to go at large; or

18955 (ii) ~~[who]~~ keeps [it] the animal without ordinary care~~[-and]~~ ; and

18956 (b) ~~[any-]~~ the animal, while at large, or while not kept with ordinary care, causes injury to

18957 or the death of another animal or [to any] a human being who has taken reasonable[

18958 precaution which the circumstances permitted] precautions under the circumstances.

18959 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is ~~[-is~~

18960 guilty of] a class B misdemeanor.

18961 (b) A violation of Subsection (2) is a third degree felony if ~~[unless]~~ the animal causes the

18962 death of a human being~~[-whereupon the owner is guilty of a felony of the third degree].~~

18963 Section 399. Section **76-13-213**, which is renumbered from Section 76-9-301.8 is renumbered

18964 and amended to read:

18965 ~~[76-9-301.8]~~ **76-13-213 . Bestiality.**

18966 ~~[(1) A person commits the crime of bestiality if the actor engages in any sexual activity~~

18967 ~~with an animal with the intent of sexual gratification of the actor.]~~

18968 ~~[(2)]~~ (1)(a) For purposes of this section~~[-only]~~:

18969 ~~[(a)]~~ (i) "Animal" means any live, nonhuman vertebrate creature, including fowl.

18970 ~~[(b)]~~ (ii) "Sexual activity" means physical sexual contact:

18971 ~~[(i)]~~ (A) between the actor and the animal involving the genitals of the actor and

18972 the genitals of the animal;

18973 ~~[(ii)]~~ (B) the genitals of the actor or the animal and the mouth or anus of the actor

18974 or the animal; or

18975 ~~[(iii)]~~ (C) through the actor's use of an object in contact with the genitals or anus of

18976 the animal.

18977 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this

18978 section.

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18979 (2) An actor commits bestiality if the actor engages in sexual activity with an animal with
18980 the intent to sexually gratify the actor.

18981 (3) A ~~[crime of bestiality]~~ violation of Subsection (2) is a class B misdemeanor.

18982 Section 400. Section **76-13-214**, which is renumbered from Section 76-9-308 is renumbered
18983 and amended to read:

18984 **[76-9-308] 76-13-214 . Harassment of livestock.**

18985 (1)(a) As used in this section:

18986 ~~[(a)]~~ (i) "Livestock" ~~[has the same meaning]~~ means the same as that term is defined in [
18987 ~~Subsection 76-9-301(1)]~~ Section 76-13-202.

18988 ~~[(b)]~~ (ii) "Unmanned aircraft system" means the same as that term is defined in
18989 Section 72-10-102.

18990 (b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this
18991 section.

18992 (2) Except as provided in Subsection ~~[(3), a person is guilty of]~~ (4), an actor commits
18993 harassment of livestock if the ~~[person]~~ actor intentionally, knowingly, or recklessly
18994 chases, with the intent of causing distress, or harms livestock through the use of:

18995 (a) a motorized vehicle or all-terrain vehicle;

18996 (b) a dog; or

18997 (c) an unmanned aircraft system.

18998 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B
18999 misdemeanor if:

19000 (i) no livestock is seriously injured or killed as a result of the actor's actions; or

19001 (ii) the actor's actions cause the livestock to be displaced onto property where the
19002 livestock is not legally entitled to be.

19003 (b) A violation of Subsection (2) is a class A misdemeanor if:

19004 (i) the offense is the actor's second or subsequent offense;

19005 (ii) livestock is seriously injured or killed as a result of the actor's actions; or

19006 (iii) livestock or property suffered damage in excess of \$1,000, including money
19007 spent in recovering the livestock, as a result of the actor's actions.

19008 ~~[(3)]~~ (4) ~~[A person is not guilty of harassment of livestock]~~ An actor does not commit a
19009 violation of Subsection (2) if:

- 19010 (a) the [person] actor is:
- 19011 (i) the owner of the livestock;
- 19012 (ii) an employee or agent of the owner, or otherwise acting under the owner's general
- 19013 direction or with the owner's permission;
- 19014 (iii) acting in an emergency situation to prevent damage to the livestock or property;
- 19015 or
- 19016 (iv) an employee or agent of the state or a political subdivision and acting in the
- 19017 employee or agent's official capacity; or
- 19018 (b) the action is in line with generally accepted animal husbandry practices.

19019 [~~(4) A person who violates this section is guilty of:~~]

19020 [~~(a) a class B misdemeanor if the violation is a first offense and:~~]

19021 [~~(i) no livestock is seriously injured or killed as a result of the person's actions; or]~~

19022 [~~(ii) the person's actions cause the livestock to be displaced onto property where the~~

19023 ~~livestock is not legally entitled to be; and]~~

19024 [~~(b) a class A misdemeanor if:~~]

19025 [~~(i) the person has previously been convicted of harassment of livestock under this section;]~~

19026 [~~(ii) livestock is seriously injured or killed as a result of the person's actions; or]~~

19027 [~~(iii) livestock or property suffered damage in excess of \$1,000, including money spent in~~

19028 ~~recovering the livestock, as a result of the person's actions.]~~

19029 Section 401. Section **76-13-215**, which is renumbered from Section 76-9-301.9 is renumbered

19030 and amended to read:

19031 **~~[76-9-301.9]~~76-13-215 . Failure of an animal care facility to maintain required standards.**

19032 (1)(a) As used in this section:

19033 [(a)] (i) "Animal care facility" means an animal rescue, animal sanctuary, or animal

19034 shelter.

19035 [(b)] (ii) "Animal rescue" means a person that:

19036 [(i)] (A) accepts companion animals for the purpose of finding a permanent home

19037 for each companion animal;

19038 [(ii)] (B) does not maintain a central facility for keeping companion animals; and

19039 [(iii)] (C) uses a system of temporarily fostering the companion animals in a

19040 private residence or boarding facility.

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19041 [(e)] (iii) "Animal sanctuary" means a nonprofit entity, other than a government
19042 entity, that:

19043 [(i)] (A) harbors companion animals; and

19044 [(ii)] (B) is used exclusively for the purpose of indefinitely caring for,
19045 rehabilitating, or housing companion animals.

19046 [(d)] (iv)[(i)] (A) "Animal shelter" means the same as that term is defined in
19047 Section 11-46-102.

19048 [(ii)] (B) "Animal shelter" does not include an animal rescue.

19049 [(e)] (v) "Boarding facility" means a facility where a companion animal is kept for the
19050 purpose of caring for the companion animal.

19051 [(f)] (vi) "Companion animal" means an animal that is a domestic dog or a domestic
19052 cat.

19053 [(g)] (vii) "Facility" means a location other than a private residence.

19054 (2) An actor commits failure of an animal care facility to maintain required standards if the
19055 actor:

19056 (a) is an animal care facility; and

19057 (b) ~~[For a dog in an animal care facility's possession, the animal care facility shall]~~ fails
19058 to:

19059 (i) ensure that:

19060 [(a)] (A) a female dog does not produce more than one litter in any twelve-month
19061 period, unless a licensed veterinarian has examined the female dog and has
19062 determined that it is safe for the dog to produce more than one litter in a
19063 twelve-month period; ~~[and] or~~

19064 [(b)] (B) a dog under eight weeks of age or a dog not properly weaned is not sold~~[-]~~ ;
19065 or

19066 [(3)] (ii) ~~[An animal care facility shall]~~keep records:

19067 [(a)] (A) identifying, to the best of the animal care facility's knowledge, an
19068 animal's owner at the time the animal care facility acquires the animal; ~~[and] or~~

19069 [(b)] (B) documenting dangerous behaviors, if any, health conditions, and medical
19070 care for an animal in the animal care facility's possession.

19071 [(4)] (3)~~[(a) An animal care facility's violation of a requirement described in this section]~~

- 19072 A violation of Subsection (2) is an infraction subject to a fine of \$750.
- 19073 [(b)] (4) A prosecution under this section does not preclude a prosecution for any other
19074 criminal offense.
- 19075 (5) It is a defense to [~~the penalty imposed~~] a prosecution under this section that the conduct
19076 of the actor toward the animal was:
- 19077 (a) performed by a licensed veterinarian using accepted veterinary practice;
- 19078 (b) directly related to bona fide experimentation for scientific research, provided that if
19079 the animal is to be destroyed, the manner employed will not be unnecessarily cruel
19080 unless directly necessary to the veterinary purpose or scientific research involved;
- 19081 (c) permitted under Section 18-1-3;
- 19082 (d) performed by a person who humanely destroys [~~any~~] an animal found suffering past
19083 recovery for any useful purpose; or
- 19084 (e) performed by a person who humanely destroys [~~any~~] an apparently abandoned animal
19085 found on the person's property.
- 19086 (6) This section does not prohibit the use of animals in lawful training.
- 19087 (7) A veterinarian who, acting in good faith, reports a violation of this section to law
19088 enforcement or the Department of Agriculture and Food in accordance with Section
19089 4-2-903 may not be held civilly liable for making the report.
- 19090 Section 402. Section **76-14-101** is enacted to read:

19091 **CHAPTER 14. OFFENSES RELATED TO IMMIGRATION STATUS**

19092 **Part 1. General Provisions**

19093 **76-14-101 . Definitions.**

19094 Reserved.

19095 Section 403. Section **76-14-201**, which is renumbered from Section 76-9-1002 is renumbered
19096 and amended to read:

19097 **Part 2. Offenses Related to Immigration Status**

19098 **~~[76-9-1002]~~76-14-201 . Definitions.**

19099 As used in this part:

- 19100 (1) "Alien" means [~~a person~~] an individual who is not a citizen or national of the United

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- 19101 States of America.
- 19102 (2) "ICE" means the federal Immigration and Customs Enforcement agency of the United
19103 States Department of Homeland Security.
- 19104 (3) "Law enforcement officer" has the same meaning as in Section 53-13-103.
- 19105 (4) "SAVE program" means the federal Systematic Alien Verification for Entitlements
19106 program operated by the federal Department of Homeland Security.
- 19107 (5) "State or local governmental agency" includes ~~[any]~~ a private contractor or vendor that
19108 contracts with the agency to provide the agency's functions or services.
- 19109 (6) "Verify immigration status" or "verification of immigration status" means the
19110 determination of ~~[a person's]~~ an individual's immigration status by:
- 19111 (a) a law enforcement officer who is authorized by a federal agency to determine an
19112 alien's immigration status; or
- 19113 (b) the United States Department of Homeland Security, ICE, or other federal agency
19114 authorized to provide immigration status as provided by 8 U.S.C. Sec. 1373(c).
19115 Section 404. Section **76-14-202**, which is renumbered from Section 76-9-1003 is renumbered
19116 and amended to read:
- 19117 **~~[76-9-1003]~~76-14-202 . Detention or arrest -- Determination of immigration status.**
- 19118 (1)(a) Except as provided in Subsection (1)(b), (c), or (d), ~~[any]~~ a law enforcement
19119 officer who, acting in the enforcement of ~~[any]~~ a state law or local ordinance,
19120 conducts ~~[any]~~ a lawful stop, detention, or arrest of ~~[a person]~~ an individual as
19121 specified in Subsection (1)(a)(i) or (ii), and the ~~[person]~~ individual is unable to
19122 provide to the law enforcement officer a document listed in Subsection ~~[76-9-1004(1)]~~
19123 76-14-203(1) and the law enforcement officer is otherwise unable to verify the
19124 identity of the ~~[person]~~ individual, the law enforcement officer:
- 19125 (i) shall request verification of the citizenship or the immigration status of the ~~[person]~~
19126 individual under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b),
19127 (c), or (d), if the ~~[person]~~ individual is arrested for an alleged offense that is a class
19128 A misdemeanor or a felony; and
- 19129 (ii) may attempt to verify the immigration status of the ~~[person]~~ individual, except as
19130 exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or
19131 C misdemeanor, except that if the ~~[person]~~ individual is arrested and booked for a

- 19132 class B or C misdemeanor, the arresting law enforcement officer or the law
19133 enforcement agency booking the ~~[person]~~ individual shall attempt to verify the
19134 immigration status of the ~~[person]~~ individual.
- 19135 (b) In individual cases, the law enforcement officer may forego the verification of
19136 immigration status under Subsection (1)(a) if the determination could hinder or
19137 obstruct a criminal investigation.
- 19138 (c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a
19139 school resource officer for ~~[any]~~ an elementary or secondary school.
- 19140 (d) Subsection (1)(a) does not apply to a county or municipality when it has only one
19141 law enforcement officer on duty and response support from another law enforcement
19142 agency is not available.
- 19143 (2) When a law enforcement officer makes a lawful stop, detention, or arrest under
19144 Subsection (1) of the operator of a vehicle, and while investigating or processing the
19145 primary offense, the law enforcement officer makes observations that give the law
19146 enforcement officer reasonable suspicion that the operator or any of the passengers in
19147 the vehicle are violating Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310,
19148 76-5-310.1, or ~~[76-10-2901]~~ 76-14-209, which concern smuggling, human trafficking, [
19149 ~~and~~] or transporting illegal aliens, the law enforcement officer shall, to the extent
19150 possible within a reasonable period of time:
- 19151 (a) detain the occupants of the vehicle to investigate the suspected violations; and
19152 (b) inquire regarding the immigration status of the occupants of the vehicle.
- 19153 (3) When ~~[a person]~~ an individual under Subsection (1) is arrested or booked into a jail,
19154 juvenile detention facility, or correctional facility, the arresting officer or the booking
19155 officer shall ensure that a request for verification of immigration status of the arrested or
19156 booked ~~[person]~~ individual is submitted as promptly as is reasonably possible.
- 19157 (4) The law enforcement agency that has custody of ~~[a person]~~ an individual verified to be
19158 an illegal alien shall request that the United States Department of Homeland Security
19159 issue a detainer requesting transfer of the illegal alien into federal custody.
- 19160 (5) A law enforcement officer may not consider race, color, or national origin in
19161 implementing this section, except to the extent permitted by the constitutions of the
19162 United States and this state.

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19163 Section 405. Section **76-14-203**, which is renumbered from Section 76-9-1004 is renumbered
19164 and amended to read:

19165 ~~[76-9-1004]~~**76-14-203 . Grounds for presumption of lawful presence in United States --**
19166 **Statement to officer.**

19167 (1) ~~[A person]~~ An individual is presumed to be lawfully present in the United States for the
19168 purposes of this ~~[part]~~ chapter if the ~~[person]~~ individual provides one of the following
19169 documents to the law enforcement officer, unless the law enforcement officer has a
19170 reasonable suspicion that the document is false or identifies ~~[a person]~~ an individual
19171 other than the ~~[person]~~ individual providing the document:

- 19172 (a) a valid Utah driver license issued on or after January 1, 2010;
- 19173 (b) a valid Utah identification card issued under Section 53-3-804 and issued on or after
19174 January 1, 2010;
- 19175 (c) a valid tribal enrollment card or other valid form of tribal membership identification
19176 that includes photo identification;
- 19177 (d) a valid identification document that:
 - 19178 (i) includes a photo or biometric identifier of the holder of the document; and
 - 19179 (ii) is issued by a federal, state, or local governmental agency that requires proof or
19180 verification of legal presence in the United States as a condition of issuance of the
19181 document; or
- 19182 (e) a valid resident immigrant permit issued under Section 63G-14-204.

19183 (2) ~~[A person]~~ An individual is presumed to be a citizen or national of the United States for
19184 purposes of this part if the ~~[person]~~ individual makes a statement or affirmation to the
19185 law enforcement officer that the ~~[person]~~ individual is a United States citizen or national,
19186 unless the officer has a reasonable suspicion that the statement or affirmation is false.

19187 Section 406. Section **76-14-204**, which is renumbered from Section 76-9-1005 is renumbered
19188 and amended to read:

19189 ~~[76-9-1005]~~**76-14-204 . Illegal alien -- Notification of federal government -- Transportation**
19190 **to**
19191 **federal facility.**

19191 A state or local law enforcement agency may securely transport an alien who is in the
19192 agency's custody and whom the agency has verified is unlawfully present in the United

19193 States to:

19194 -

19195 (1) a federal detention facility in this state; or[-]

19196 (2) with the concurrence of the receiving federal agency, to a federal facility or other point
19197 of transfer to federal custody that is outside this state.

19198 Section 407. Section **76-14-205**, which is renumbered from Section 76-9-1006 is renumbered
19199 and amended to read:

19200 **[76-9-1006]76-14-205 . Enforcement of federal immigration laws.**

19201 A state or local governmental agency of this state, or [any] a representative of the
19202 agency, may not:

19203 (1) limit or restrict by ordinance, regulation, or policy the authority of [any] a law
19204 enforcement agency or other governmental agency to assist the federal government in
19205 the enforcement of any federal law or regulation governing immigration; or

19206 (2) limit or restrict by ordinance, regulation, or policy the authority of [any] a law
19207 enforcement agency to investigate or enforce [any] a violation of the federal
19208 misdemeanor offenses of willful failure to register as an alien or willful failure to
19209 personally possess an alien registration document as required by 8 U.S.C. Sec. 1304(e)
19210 or 1306(a).

19211 Section 408. Section **76-14-206**, which is renumbered from Section 76-9-1007 is renumbered
19212 and amended to read:

19213 **[76-9-1007]76-14-206 . Determining an alien's immigration status -- Transfer or**
19214 **maintenance of information.**

19215 Except as limited by federal law, [any] a state or local governmental agency is not
19216 restricted or prohibited in any way from sending, receiving, or maintaining information
19217 related to the lawful or unlawful immigration status of [any person] an individual by
19218 communicating with [any] a federal, state, or local governmental entity for [any] a lawful
19219 purpose, including:

19220 (1) determining [a person's] an individual's eligibility for [any] a public benefit, service, or
19221 license provided by [any] a federal agency, by this state, or by [any] a political
19222 subdivision of this state;

19223 (2) confirming [a person's] an individual's claim of residence or domicile if determination is

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19224 required by state law or a judicial order issued pursuant to a civil or criminal proceeding
19225 in this state;

19226 (3) if the ~~[person]~~ individual is an alien, determining if the ~~[person]~~ individual is in
19227 compliance with the federal registration laws of Title II, Part 7, Immigration and
19228 Nationality Act; or

19229 (4) a valid request for verification of the citizenship or immigration status of ~~[any person]~~ an
19230 individual pursuant to 8 U.S.C. Sec. 1373.

19231 Section 409. Section **76-14-207**, which is renumbered from Section 76-9-1008 is renumbered
19232 and amended to read:

19233 ~~[76-9-1008]~~ **76-14-207 . Proof of immigration status required to receive public benefits.**

19234 (1)(a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec.
19235 1621 shall comply with Section 63G-12-402 and shall also comply with this section,
19236 except:

19237 (i) as provided in Subsection 63G-12-402(3)(g) or (k); or

19238 (ii) when compliance is exempted by federal law or when compliance could
19239 reasonably be expected to be grounds for the federal government to withhold
19240 federal Medicaid funding.

19241 (b) The agency shall verify ~~[a person's]~~ an individual's lawful presence in the United
19242 States by requiring that the applicant under this section sign a certificate under
19243 penalty of perjury, stating that the applicant:

19244 (i) is a United States citizen; or

19245 (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

19246 (c) The certificate under Subsection (1)(b) shall include a statement advising the signer
19247 that providing false information subjects the signer to penalties for perjury.

19248 (d) The signature under this Subsection (1) may be executed in person or electronically.

19249 (e) When an applicant who is a qualified alien has executed the certificate under this
19250 section, the applicant's eligibility for benefits shall be verified by the agency through
19251 the federal SAVE program or an equivalent program designated by the United States
19252 Department of Homeland Security.

19253 (2) ~~[Any person]~~ An individual who knowingly and willfully makes a false, fictitious, or
19254 fraudulent statement of representation in a certificate executed under this section is

- 19255 guilty of public assistance fraud by an applicant for public assistance under Section
19256 76-8-1203.1.
- 19257 (3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C.
19258 Sec. 911, the agency requiring the certificate shall file a complaint with the United
19259 States Attorney for the applicable federal judicial district based upon the venue in which
19260 the certificate was executed.
- 19261 (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to
19262 the requirements of the provisions of this section that provide for adjudication of unique
19263 individual circumstances ~~[where]~~ in which the verification procedures in this section
19264 would impose unusual hardship on a legal resident of this state.
- 19265 (5) If an agency under Subsection (1) receives verification that ~~[a person]~~ an individual
19266 making an application for ~~[any]~~ a benefit, service, or license is not a qualified alien, the
19267 agency shall provide the information to the local law enforcement agency for
19268 enforcement of public assistance fraud by an applicant for public assistance under
19269 Section 76-8-1203.1 unless prohibited by federal mandate.

19270 Section 410. Section **76-14-208**, which is renumbered from Section 76-9-1009 is renumbered
19271 and amended to read:

19272 ~~[76-9-1009]~~**76-14-208 . Implementation to be consistent with federal law and civil rights.**

19273 All state and local agencies shall implement this part in a manner that is consistent
19274 with federal laws that regulate immigration, protect the civil rights of all ~~[persons]~~
19275 individuals, and establish the privileges and immunities of United States citizens.

19276 Section 411. Section **76-14-209**, which is renumbered from Section 76-10-2901 is renumbered
19277 and amended to read:

19278 ~~[76-10-2901]~~**76-14-209 . Transporting or harboring an alien.**

19279 (1)(a) As used in this ~~[part]~~ section:

19280 ~~[(a)]~~ (i) Except as provided in Subsection ~~[(1)(b)]~~ (1)(a)(ii), "alien" means an
19281 individual who is illegally present in the United States.

19282 ~~[(b)]~~ (ii) On or after the program start date, as defined in Section 63G-12-102, "alien"
19283 does not include an individual who holds a valid permit, as defined in Section
19284 63G-12-102.

19285 (b) Terms defined in Sections 76-1-101.5, 76-14-101, and 76-14-201 apply to this

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- 19286 section.
- 19287 (2) ~~[It is unlawful for a person to]~~ An actor commits transporting or harboring an alien if the
- 19288 actor:
- 19289 (a) ~~[transport, move, or attempt]~~ transports, moves, or attempts to transport into this state
- 19290 or within the state an alien for commercial advantage or private financial gain,
- 19291 knowing or in reckless disregard of the fact that the alien is in the United States in
- 19292 violation of federal law, in furtherance of the illegal presence of the alien in the
- 19293 United States;
- 19294 (b) knowingly, with the intent to violate federal immigration law, ~~[conceal, harbor, or~~
- 19295 ~~shelter]~~ conceals, harbors, or shelters from detection an alien in a place within this
- 19296 state, including a building or means of transportation for commercial advantage or
- 19297 private financial gain, knowing or in reckless disregard of the fact that the alien is in
- 19298 the United States in violation of federal law;
- 19299 (c) ~~[encourage or induce]~~ encourages or induces an alien to come to, enter, or reside in
- 19300 this state, knowing or in reckless disregard of the fact that the alien's coming to,
- 19301 entry, or residence is or will be in violation of law; or
- 19302 (d) ~~[engage]~~ engages in a conspiracy, for commercial advantage or private financial
- 19303 gain, to commit any of the offenses listed in ~~[this]~~ Subsection (2)(a), (b), or (c).
- 19304 (3)(a) ~~[A person who violates]~~ A violation of Subsection (2)(a), (c), or (d) is ~~[guilty of]~~
- 19305 a third degree felony.
- 19306 (b) ~~[A person who violates]~~ A violation of Subsection (2)(b) is ~~[guilty of]~~ a class A
- 19307 misdemeanor.
- 19308 (4) Nothing in this ~~[part]~~ section prohibits or restricts the provision of:
- 19309 (a) a state or local public benefit described in 8 U.S.C. Sec. 1621(b); or
- 19310 (b) charitable or humanitarian assistance, including medical care, housing, counseling,
- 19311 food, victim assistance, religious services and sacraments, ~~[and]~~ or transportation to
- 19312 and from a location where the assistance is provided, by a charitable, educational, or
- 19313 religious organization or ~~[its]~~ the employees, agents, or volunteers of a charitable,
- 19314 educational, or religious organization, using private funds.
- 19315 (5)(a) It is not a violation of this ~~[part]~~ section for a religious denomination or
- 19316 organization or an agent, officer, or member of a religious denomination or

19317 organization to encourage, invite, call, allow, or enable an alien to perform the
19318 vocation of a minister or missionary for the denomination or organization in the
19319 United States as a volunteer who is not compensated as an employee,
19320 notwithstanding the provision of room, board, travel, medical assistance, and other
19321 basic living expenses.

19322 (b) Subsection (5)(a) applies only to an alien who has been a member of the religious
19323 denomination or organization for at least one year.

19324 (6) An individual's participation in Title 63G, Chapter 14, Utah Pilot Sponsored Resident
19325 Immigrant Program Act, either as a sponsor or resident alien, does not constitute
19326 encouraging or inducing an alien to come to, enter, or reside in this state in violation of
19327 Subsection (2)(c).

19328 Section 412. Section **76-15-101** is enacted to read:

19329 **CHAPTER 15. EXPLOSIVES AND WEAPONS OF MASS DESTRUCTION**

19330 **Part 1. General Provisions**

19331 **76-15-101 . Definitions.**

19332 Reserved.

19333 Section 413. Section **76-15-201** is enacted to read:

19334 **Part 2. Explosives**

19335 **76-15-201 . Definitions.**

19336 Reserved.

19337 Section 414. Section **76-15-202**, which is renumbered from Section 76-10-308 is renumbered
19338 and amended to read:

19339 **~~[76-10-308]~~76-15-202 . Venue of prosecution for delivering for transmission an explosive,
19340 chemical, or incendiary device.**

19341 ~~[Any person]~~ An actor who knowingly, intentionally, or recklessly delivers ~~[any]~~ an
19342 explosive, chemical, or incendiary device to any person for transmission without the
19343 consent or direction of the lawful possessor may be prosecuted;

19344 -

19345 (1) in the county in which ~~[he]~~ the actor delivers ~~[it]~~ the explosive, chemical, or incendiary

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19346 device; or

19347 (2) in the county to which [it] the explosive, chemical, or incendiary device is transmitted.

19348 Section 415. Section **76-15-203**, which is renumbered from Section 76-10-302 is renumbered
19349 and amended to read:

19350 **[76-10-302]76-15-203 . Unlawful failure to mark a container of explosives before**
19351 **transportation or storage.**

19352 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19353 (2) [Every person who] An actor commits unlawful failure to mark a container of
19354 explosives before transportation or storage if the actor knowingly leaves with or delivers
19355 to another, or to [any] an express or railway company or other common carrier, or to [any]
19356 a warehouse or storehouse, [any] a package containing nitroglycerin, dynamite,
19357 gun cotton, gunpowder, or other highly explosive compound, or any benzine, gasoline,
19358 phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric,
19359 carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled,
19360 stored, shipped, or transported, without plainly marking and indicating on [such] the
19361 package the name and nature of the contents [thereof, is guilty of] inside the package.

19362 (3) A violation of Subsection (2) is a class B misdemeanor.

19363 Section 416. Section **76-15-204**, which is renumbered from Section 76-10-303 is renumbered
19364 and amended to read:

19365 **[76-10-303]76-15-204 . Unlawful construction or use of a powder house.**

19366 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19367 (2) [Every person who] An actor commits unlawful construction or use of a powder
19368 house if the actor builds, constructs, or uses within 300 feet of [any] a residence or
19369 traveled county road [any] a powder house, magazine, or building in which powder,
19370 dynamite, or other explosive is kept in quantities exceeding 500 pounds[is guilty of a
19371 class B misdemeanor; provided that this section shall not apply to any magazine
19372 maintained at any mine or stone quarry].

19373 (3) A violation of Subsection (2) is a class B misdemeanor.

19374 (4) This section does not apply to a magazine maintained at a mine or stone quarry.

19375 Section 417. Section **76-15-205**, which is renumbered from Section 76-10-304 is renumbered
19376 and amended to read:

19377 **[76-10-304]76-15-205 . Unlawful failure to mark a container of a high explosive held for sale**
19378 **or use.**

19379 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19380 (2) [It shall be a class A misdemeanor to sell or offer-] An actor commits unlawful
19381 failure to mark a container of a high explosive for sale or use if the actor:

19382 (a) sells or offers for sale, or [take or solicit] takes or solicits orders of sale, or [purchase
19383 or use, or have] purchases or uses, or has on hand or in store for the purpose of sale or
19384 use, [any] a giant, hercules, atlas, venture or any other high explosive containing
19385 nitroglycerin; and

19386 (b) fails to plainly stamp or print[-, unless] on each box or package and wrapper
19387 containing [any such] the high explosive;

19388 (i) [there shall be plainly stamped or printed-]the name and place of business of the
19389 person, partnership, or corporation by whom or by which [it] the high explosive
19390 was manufactured[-, and] ;

19391 (ii) the exact and true date of [its] the high explosive's manufacture[-] ; and

19392 (iii) the percentage of nitroglycerin or other high explosive contained [therein] within
19393 the box or package.

19394 (3) A violation of Subsection (2) is a class A misdemeanor.

19395 Section 418. Section **76-15-206**, which is renumbered from Section 76-10-305 is renumbered
19396 and amended to read:

19397 **[76-10-305]76-15-206 . Unlawful combination of dates in a box or package of high**
explosives.

19398 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19399 (2) [It shall be unlawful for any person or persons, partnership, or corporation to have-]
19400 An actor commits unlawful combination of dates in a box or package of high explosives
19401 if the actor puts two or more different dates on [any] a box or package containing a giant,
19402 hercules, atlas, or venture, or any other high explosive containing nitroglycerin. [It shall
19403 further be unlawful to use any box, package, or wrapper formerly used by any other
19404 person or persons, partnership, or corporation in the packing of such giant, herecules,
19405 atlas, venture, or other high explosive containing nitroglycerin, and the name and date
19406 on the box or package shall be the same as on the wrapper containing the giant, herecules,

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19407 atlas, venture, or other explosive containing ~~nitroglycerin.~~]

19408 (3) A violation of Subsection (2) is a class A misdemeanor.

19409 Section 419. Section **76-15-207** is enacted to read:

19410 **76-15-207 . Unlawful reuse of a high explosive box, package, or wrapper.**

19411 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19412 (2) An actor commits unlawful reuse of a high explosive box, package, or wrapper if the
19413 actor uses a box, package, or wrapper that was formerly used by another person in the
19414 packing of a giant, hercules, atlas, venture, or other high explosive containing
19415 nitroglycerin.

19416 (3) A violation of Subsection (2) is a class A misdemeanor.

19417 Section 420. Section **76-15-208** is enacted to read:

19418 **76-15-208 . Unlawful failure to have a high explosive box or package match an**
19419 **enclosed high explosive wrapper.**

19420 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19421 (2) An actor commits unlawful failure to have a high explosive box or package match an
19422 enclosed high explosive wrapper if the actor:

19423 (a) puts a giant, hercules, atlas, venture, or other explosive containing nitroglycerin
19424 inside a box or package; and

19425 (b) the name and date on the box or package do not match the name and date on the
19426 wrapper containing the high explosive.

19427 (3) A violation of Subsection (2) is a class A misdemeanor.

19428 Section 421. Section **76-15-209**, which is renumbered from Section 76-10-307 is renumbered
19429 and amended to read:

19430 **[76-10-307]76-15-209 . Unlawful delivery or mailing of an explosive, chemical, or incendiary**
19431 **device.**

19432 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

19433 (2) An actor commits unlawful delivery or mailing of an explosive, chemical, or incendiary
19434 device if the actor:

19435 (a) [Any person is guilty of a felony of the second degree who-]delivers or causes to
19436 be delivered to [any] an express or railway company or other common carrier, or to
19437 any person, [any] an explosive, chemical, or incendiary device[,- knowing it-] ;

- 19438 (b) knows the explosive, chemical, or incendiary device to be [the] an explosive,
19439 chemical, or incendiary device~~[, without informing]~~ ; and
19440 (c)(i) fails to inform the common carrier or person ~~[of its nature]~~ that the item is an
19441 explosive, chemical, or incendiary device; or
19442 (ii) sends [it] the explosive, chemical, or incendiary device through the mail.
19443 (3) A violation of Subsection (2) is a second degree felony.

19444 Section 422. Section **76-15-210**, which is renumbered from Section 76-10-306 is renumbered
19445 and amended to read:

19446 **[76-10-306]76-15-210 . Unlawful conduct involving an explosive, chemical, or incendiary**
19447 **device.**

19448 (1)(a) As used in this section:

19449 ~~[(a)]~~ (i)(A) "Explosive, chemical, or incendiary device" means:

19450 ~~[(i)]~~ (I) dynamite and all other forms of high explosives, including water gel,
19451 slurry, military C-4 (plastic explosives), blasting agents to include
19452 nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and
19453 boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding
19454 cords commonly called detonating cord, detcord, or primacord, picric acid
19455 explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin
19456 mixtures, or any other chemical mixture intended to explode with fire or
19457 force;

19458 ~~[(ii)]~~ (II) any explosive bomb, grenade, missile, or similar device; ~~[and]~~ or

19459 ~~[(iii)]~~ (III) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar
19460 device, including any device, except kerosene lamps, if criminal intent has
19461 not been established, which consists of or includes a breakable container
19462 including a flammable liquid or compound and a wick composed of any
19463 material which, when ignited, is capable of igniting the flammable liquid or
19464 compound or any breakable container which consists of, or includes a
19465 chemical mixture that explodes with fire or force and can be carried,
19466 thrown, or placed.

19467 ~~[(b)]~~ (ii) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or
19468 shotgun ammunition, reloading components, or muzzleloading equipment.

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- 19469 ~~[(c) "Explosive, chemical, or incendiary parts" means any substances or materials or~~
19470 ~~combinations which have been prepared or altered for use in the creation of an~~
19471 ~~explosive, chemical, or incendiary device. These substances or materials include:]~~
19472 ~~[(i) timing device, clock, or watch which has been altered in such a manner as to be~~
19473 ~~used as the arming device in an explosive;]~~
19474 ~~[(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and]~~
19475 ~~[(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time~~
19476 ~~delays, or commercially made or improvised items which, when used singly or in~~
19477 ~~combination, may be used in the construction of a timing delay mechanism, booby~~
19478 ~~trap, or activating mechanism for any explosive, chemical, or incendiary device.]~~
19479 ~~[(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or~~
19480 ~~shotgun ammunition, or any signaling device customarily used in operation of~~
19481 ~~railroad equipment.]~~
19482 (b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this
19483 section.
19484 (2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary
19485 device if, under circumstances not amounting to a violation of Part 2, Weapons of Mass
19486 Destruction, the actor:
19487 (a) intentionally, knowingly, or recklessly:
19488 (i) possesses or controls an explosive, chemical, or incendiary device; or
19489 (ii) removes or causes to be removed or carries away an explosive, chemical, or
19490 incendiary device from the premises where the explosive, chemical, or incendiary
19491 device is kept by the lawful user, vendor, transporter, or manufacturer, without the
19492 consent or direction of the lawful possessor; or
19493 (b) intentionally or knowingly:
19494 (i) uses or causes to be used an explosive, chemical, or incendiary device in the
19495 commission of or an attempt to commit a felony;
19496 (ii) injures another or attempts to injure another person or another person's property
19497 through the use of an explosive, chemical, or incendiary device; or
19498 (iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary
19499 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3,

- 19500 76-11-215, or 78A-2-203.
- 19501 (3)(a) A violation of Subsection (2)(a) is a second degree felony.
- 19502 (b) A violation of Subsection (2)(b) is a first degree felony.
- 19503 ~~[(2)]~~ (4) The provisions in ~~[Subsections (3) and (6)]~~ Subsection (2)(a)(i) do not apply to:
- 19504 (a) ~~[any]~~ a public safety officer while acting in an official capacity transporting or
- 19505 otherwise handling ~~[explosives, chemical, or incendiary devices]~~ an explosive,
- 19506 chemical, or incendiary device;
- 19507 (b) ~~[any]~~ a member of the armed forces of the United States or Utah National Guard
- 19508 while acting in an official capacity;
- 19509 (c) ~~[any]~~ a person possessing a valid permit issued under the provisions of the
- 19510 International Fire Code, Section 105 and Chapter 56, or ~~[any]~~ an employee of the
- 19511 permittee acting within the scope of employment;
- 19512 (d) ~~[any]~~ a person possessing a valid license as an importer, wholesaler, display operator,
- 19513 special effects operator, or flame effects operator under the provisions of Sections
- 19514 11-3-3.5 and 53-7-223; ~~[and]~~ or
- 19515 (e) ~~[any]~~ a person or entity possessing or controlling an explosive, chemical, or
- 19516 incendiary device as part of ~~[its]~~ the person's or entity's lawful business operations.
- 19517 ~~[(3) Any person is guilty of a second degree felony who, under circumstances not~~
- 19518 ~~amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly,~~
- 19519 ~~intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary~~
- 19520 ~~device.]~~
- 19521 ~~[(4) Any person is guilty of a first degree felony who, under circumstances not amounting~~
- 19522 ~~to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:]~~
- 19523 ~~[(a) uses or causes to be used an explosive, chemical, or incendiary device in the~~
- 19524 ~~commission of or an attempt to commit a felony;]~~
- 19525 ~~[(b) injures another or attempts to injure another person or another person's property~~
- 19526 ~~through the use of an explosive, chemical, or incendiary device; or]~~
- 19527 ~~[(e) transports, possesses, distributes, or sells any explosive, chemical, or incendiary~~
- 19528 ~~device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3,~~
- 19529 ~~76-10-529, or 78A-2-203.]~~
- 19530 ~~[(5) Any person who, under circumstances not amounting to a violation of Part 4,~~

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19531 ~~Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes~~
19532 ~~to be removed or carries away any explosive, chemical, or incendiary device from the~~
19533 ~~premises where the explosive, chemical, or incendiary device is kept by the lawful user,~~
19534 ~~vendor, transporter, or manufacturer without the consent or direction of the lawful~~
19535 ~~possessor is guilty of a second degree felony.]~~

19536 [(6) ~~Any person who, under circumstances not amounting to a violation of Part 4,~~
19537 ~~Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any~~
19538 ~~explosive, chemical, or incendiary parts is guilty of a third degree felony.]~~

19539 Section 423. Section **76-15-211** is enacted to read:

19540 **76-15-211 . Unlawful conduct involving an explosive, chemical, or incendiary**
19541 **part.**

19542 (1)(a) As used in this section:

19543 (i) "Explosive, chemical, or incendiary device" means the same as that term is
19544 defined in Section 76-15-210.

19545 (ii)(A) "Explosive, chemical, or incendiary part" means an explosive, chemical,
19546 or incendiary part substance or material, or combination of explosive,
19547 chemical, or incendiary part substances or materials, that has been prepared or
19548 altered for use in the creation of an explosive, chemical, or incendiary device.

19549 (B) "Explosive, chemical, or incendiary part" does not include rifle, pistol, or
19550 shotgun ammunition, or any signaling device customarily used in operation of
19551 railroad equipment.

19552 (iii) "Explosive, chemical, or incendiary part substance or material" includes:

19553 (A) a timing device, clock, or watch that has been altered in such a manner as to
19554 be used as the arming device in an explosive;

19555 (B) a pipe, end cap, or metal tubing that has been prepared for a pipe bomb; and

19556 (C) a mechanical timer, mechanical trigger, chemical time delay, electronic time
19557 delay, or commercially made or improvised items that, when used singly or in
19558 combination, may be used in the construction of a timing delay mechanism,
19559 booby trap, or activating mechanism for an explosive, chemical, or incendiary
19560 device.

19561 (b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this

19562 section.

19563 (2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary
19564 part if, under circumstances not amounting to a violation of Part 3, Weapons of Mass
19565 Destruction, the actor intentionally, knowingly, or recklessly possesses an explosive,
19566 chemical, or incendiary part.

19567 (3) A violation of Subsection (2) is a third degree felony.

19568 (4) The provisions in Subsection (2) do not apply to:

19569 (a) a public safety officer while acting in an official capacity transporting or otherwise
19570 handling an explosive, chemical, or incendiary device;

19571 (b) a member of the armed forces of the United States or Utah National Guard while
19572 acting in an official capacity;

19573 (c) a person possessing a valid permit issued under the provisions of the International
19574 Fire Code, Section 105 and Chapter 56, or an employee of the permittee acting
19575 within the scope of employment;

19576 (d) a person possessing a valid license as an importer, wholesaler, display operator,
19577 special effects operator, or flame effects operator under the provisions of Sections
19578 11-3-3.5 and 53-7-223; or

19579 (e) a person or entity possessing or controlling an explosive, chemical, or incendiary
19580 device as part of the person's or entity's lawful business operations.

19581 Section 424. Section **76-15-301**, which is renumbered from Section 76-10-401 is renumbered
19582 and amended to read:

19583 **Part 3. Weapons of Mass Destruction**

19584 **~~76-10-401~~76-15-301 . Definitions.**

19585 As used in this part:

19586 (1) "Biological agent" means [any] a microorganism, virus, infectious substance, or
19587 biological product that may be engineered as a result of biotechnology, or [any] a
19588 naturally occurring or bioengineered component of [any] a microorganism, virus,
19589 infectious substance, or biological product, that is capable of causing:

19590 (a) death, disease, or other biological malfunction in a human, an animal, a plant, or
19591 another living organism;

19592 (b) deterioration of food, water, equipment, supplies, or material of any kind; or

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- 19593 (c) deleterious alteration of the environment.
- 19594 (2) "Delivery system" means:
- 19595 (a) [~~any~~] an apparatus, equipment, device, or means of delivery specifically designed to
- 19596 deliver or disseminate a biological agent, toxin, or vector; or
- 19597 (b) [~~any~~] a vector.
- 19598 (3) "Hoax weapon of mass destruction" means [~~any~~] a device or object that by [~~its~~] the
- 19599 device's or object's design, construction, content, or characteristics appears to be or to
- 19600 contain, or is represented to be, constitute, or contain, a weapon of mass destruction as
- 19601 defined in this section, but which is, in fact, an inoperative facsimile, imitation,
- 19602 counterfeit, or representation of a weapon of mass destruction [~~which~~] that does not:
- 19603 (a) meet the definition of a weapon of mass destruction; or
- 19604 (b) actually contain or constitute a weapon, biological agent, toxin, vector, or delivery
- 19605 system prohibited by this section.
- 19606 (4) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or
- 19607 infectious substances, or a recombinant molecule, whatever its origin or method of
- 19608 production, including:
- 19609 (a) [~~any~~] a poisonous substance or biological product that may be engineered as a result
- 19610 of biotechnology produced by a living organism; or
- 19611 (b) [~~any~~] a poisonous isomer or biological product, homolog, or derivative of the
- 19612 substance under Subsection (4)(a).
- 19613 (5) "Vector" means a living organism, or molecule, including a recombinant molecule, or
- 19614 biological product that may be engineered as a result of biotechnology, capable of
- 19615 carrying a biological agent or toxin to a host.
- 19616 (6)(a) "Weapon of mass destruction" means:
- 19617 (i) [~~any~~] an item or instrumentality that is designed or intended to cause widespread
- 19618 death or serious bodily injury to multiple victims;
- 19619 (ii) [~~any~~] an item or instrumentality that is designed or intended to cause death or
- 19620 serious bodily injury through the release, dissemination, or impact of toxic or
- 19621 poisonous chemicals, or [~~their~~] the precursors of toxic or poisonous chemicals;
- 19622 (iii) [~~any~~] a disease organism, including [~~any~~] a biological agent, toxin, or vector [~~which~~] that
- 19623 is used or intended to be used as a weapon;

19624 (iv) ~~[any]~~ an item or instrumentality that is designed to release radiation or
19625 radioactivity at a level dangerous to human life and that is used or intended to be
19626 used as a weapon; or

19627 (v) ~~[any]~~ a substance or material or combination ~~[which]~~ that has been prepared or
19628 altered for use in the creation of a weapon described in Subsections (6)(a)(i)
19629 through (iv).

19630 (b) "Weapon of mass destruction" does not include ~~[firearms]~~ a firearm or rifle, pistol, or
19631 shotgun ammunition, reloading components, or muzzleloading equipment.

19632 Section 425. Section **76-15-302**, which is renumbered from Section 76-10-402 is renumbered
19633 and amended to read:

19634 ~~[76-10-402]~~ **76-15-302 . Unlawful manufacture, possession, sale, use, or attempted use of a**
19635 **weapon of mass destruction.**

19636 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.

19637 (2) ~~[A person who]~~ An actor commits unlawful manufacture, possession, sale, use, or
19638 attempted use of a weapon of mass destruction if the actor, without lawful authority,
19639 intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses,
19640 attempts to use, solicits the use of, or conspires to use a weapon of mass destruction or a
19641 delivery system for a weapon of mass destruction, including any biological agent, toxin,
19642 vector, or delivery system~~[as those terms are defined in this section, is guilty of a first~~
19643 degree felony].

19644 (3) A violation of Subsection (2) is a first degree felony.

19645 (4) In addition to any other penalty authorized by law, a court shall order an actor convicted
19646 of a violation of this section to reimburse any federal, state, or local unit of government,
19647 or any private business, organization, individual, or entity, for all expenses and losses
19648 incurred in responding to the violation, unless the court states on the record the reasons
19649 why the reimbursement would be inappropriate.

19650 (5) This section does not apply to a member or employee of the Armed Forces of the United
19651 States, allied armed forces personnel, a federal or state governmental agency, or a
19652 private entity, who is engaged in lawful activity within the scope of the actor's
19653 employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver,
19654 display, or otherwise engage in activity relative to this section, and if the actor is in

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19655 compliance with applicable federal and state law.

19656 Section 426. Section **76-15-303**, which is renumbered from Section 76-10-403 is renumbered
19657 and amended to read:

19658 ~~[76-10-403]~~**76-15-303 . Unlawful manufacture, possession, sale, use, or attempted use of a**
19659 **hoax weapon of mass destruction.**

19660 (1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.

19661 (2) ~~[Any person who]~~ An actor commits unlawful manufacture, possession, sale, use,
19662 or attempted use of a hoax weapon of mass destruction if the actor, without lawful
19663 authority, intentionally or knowingly manufactures, possesses, sells, delivers, displays,
19664 uses, attempts to use, solicits the use of, or conspires to use a hoax weapon of mass
19665 destruction with the intent to deceive or otherwise mislead another person into believing
19666 that the hoax weapon of mass destruction is a weapon of mass destruction[is guilty of a
19667 second-degree felony].

19668 (3) A violation of Subsection (2) is a second degree felony.

19669 (4) In addition to any other penalty authorized by law, a court shall order an actor convicted
19670 of a violation of this section to reimburse any federal, state, or local unit of government,
19671 or any private business, organization, individual, or entity, for all expenses and losses
19672 incurred in responding to the violation, unless the court states on the record the reasons
19673 why the reimbursement would be inappropriate.

19674 (5) This section does not apply to a member or employee of the Armed Forces of the United
19675 States, allied armed forces personnel, a federal or state governmental agency, or a
19676 private entity, who is engaged in lawful activity within the scope of the actor's
19677 employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver,
19678 display, or otherwise engage in activity relative to this section, and if the actor is in
19679 compliance with applicable federal and state law.

19680 Section 427. Section **76-16-101** is enacted to read:

19681 **CHAPTER 16. OFFENSES CONCERNING BUSINESS PRACTICES**

19682 **Part 1. General Provisions**

19683 **76-16-101 . Definitions.**

19684 Reserved.

19685 Section 428. Section **76-16-201**, which is renumbered from Section 76-10-701 is renumbered
19686 and amended to read:

19687 **Part 2. Corporation and Association Offenses**

19688 **~~[76-10-701]~~76-16-201 . Definitions.**

19689 As used in this part:

19690 (1) "Bona fide stockholder of record" means a stockholder of record who has acquired stock
19691 in good faith and is acting for a proper purpose reasonably related to ~~[his]~~ the
19692 stockholder's interests as a stockholder.

19693 (2) "Director" means ~~[any of the persons]~~ a person having by law the direction or
19694 management of the affairs of a corporation, by whatever name the ~~[persons are]~~ person is
19695 described in ~~[its]~~ the corporation's charter or is known by law.

19696 Section 429. Section **76-16-202**, which is renumbered from Section 76-10-709 is renumbered
19697 and amended to read:

19698 **~~[76-10-709]~~76-16-202 . Presumption of director's knowledge of affairs.**

19699 ~~[Every]~~ A director of a corporation or joint stock association is deemed to possess
19700 a knowledge of the affairs of ~~[his]~~ the corporation or association so as to enable ~~[him]~~ the
19701 director to determine whether ~~[any]~~ an act, proceeding, or omission of ~~[its]~~ the
19702 corporation's or association's directors is a violation of this part.

19703 Section 430. Section **76-16-203**, which is renumbered from Section 76-10-710 is renumbered
19704 and amended to read:

19705 **~~[76-10-710]~~76-16-203 . Presumption of director's concurrence in action if present at meeting**
19706 **-- Exception.**

19707 ~~[Every]~~

19708 (1) Except as provided in Subsection (2), a director of a corporation or joint stock
19709 association who is present at a meeting of the directors at which ~~[any]~~ an act, proceeding,
19710 or omission of the directors in violation of this part occurs is deemed to have concurred [
19711 ~~therein, unless he-~~] in the act, proceeding, or omission.

19712 (2) A director is not deemed to have concurred in an act, proceeding, or omission of the
19713 directors if, at the time of the act, proceeding, or omission, the director:

19714 (a) causes, or in writing requires, [his] the director's dissent [therefrom] from the act,
19715 proceeding, or omission to be entered in the minutes of the directors; or

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19716 (b) forwards [his] the director's dissent by registered mail to the secretary of the
19717 corporation immediately after the adjournment of the meeting.

19718 Section 431. Section **76-16-204**, which is renumbered from Section 76-10-711 is renumbered
19719 and amended to read:

19720 **[76-10-711]76-16-204 . Foreign corporations subject to Utah laws.**

19721 It is no defense to a prosecution for a violation of [any of the provisions of]this
19722 part that the corporation was [one]created by the laws of another state, government,
19723 or country if [it was one] the corporation is carrying on business or keeping an office [
19724 therefor]within this state.

19725 Section 432. Section **76-16-205**, which is renumbered from Section 76-10-702 is renumbered
19726 and amended to read:

19727 **[76-10-702]76-16-205 . Fraudulent signing of a stock subscription or agreement.**

19728 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19729 (2) [Every person who] An actor commits fraudulent signing of a stock subscription if
19730 the actor:

19731 (a) signs the name of a fictitious person to [any] a subscription for, or agreement to take,
19732 stock in [any] a proposed or existing corporation[existing or proposed, and every
19733 person who] ; or

19734 (b) signs [~~to any subscription or agreement]~~the name of any person to a subscription for,
19735 or agreement to take, stock in a proposed or existing corporation, knowing that the
19736 person has no means or does not intend in good faith to comply with all the terms [
19737 thereof] of the subscription or agreement, or under any understanding or agreement
19738 that the terms of the subscription or agreement are not to be complied with or
19739 enforced[~~, is guilty of a class B misdemeanor].~~

19740 (3) A violation of Subsection (2) is a class B misdemeanor.

19741 Section 433. Section **76-16-206**, which is renumbered from Section 76-10-703 is renumbered
19742 and amended to read:

19743 **[76-10-703]76-16-206 . Exhibition of a fraudulent document relating to a corporation or an**
19744 **increase of capital stock.**

19745 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19746 (2) An actor commits exhibition of a fraudulent document relating to a corporation or an

19747 increase of capital stock if the actor:

19748 (a) [Every] is:

19749 (i) an officer, agent, or clerk of [any] a corporation~~[-or any]~~ ; or

19750 (ii) a person proposing to organize a corporation~~[-]~~ or to increase the capital stock of [
19751 any] a corporation~~[-, who]~~ ; and

19752 (b) knowingly exhibits [any] a false, forged, or altered book, paper, voucher, security, or
19753 other instrument of evidence to [any] a public officer or board authorized by law to
19754 examine the organization of the corporation, or to investigate [its] the corporation's
19755 affairs, or to allow an increase of [its] the corporation's capital, with the intent to
19756 deceive the officer or board ~~[in respect thereto]~~ with respect to the examination,
19757 investigation, or increase of capital~~[-, shall be guilty of a felony of the third degree].~~

19758 (3) A violation of Subsection (2) is a third degree felony.

19759 Section 434. Section **76-16-207**, which is renumbered from Section 76-10-704 is renumbered
19760 and amended to read:

19761 **~~[76-10-704]~~76-16-207 . Misrepresentation of a person as an officer, agent, member, or**
19762 **promoter.**

19763 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19764 (2) An actor commits misrepresentation of a person as an officer, agent, member, or
19765 promoter if the actor, ~~[Every person who,]~~without being authorized ~~[so]~~ to do so,
19766 subscribes the name of another person to, or inserts the name of another person in, ~~[any]~~ a
19767 prospectus, circular, or other advertisement or announcement of ~~[any]~~ an existing
19768 corporation or joint stock association, existing or intended to be formed, with the intent
19769 to permit ~~[it]~~ the prospectus, circular, or other advertisement or announcement to be
19770 published, and thereby to lead persons to believe that the person whose name is ~~[so~~
19771 subscribed] included in the prospectus, circular, or other advertisement or announcement
19772 is an officer, agent, member, or promoter of ~~[such]~~ the corporation or association~~[-is~~
19773 guilty of] .

19774 (3) A violation of Subsection (2) is a class B misdemeanor.

19775 Section 435. Section **76-16-208**, which is renumbered from Section 76-10-705 is renumbered
19776 and amended to read:

19777 **~~[76-10-705]~~76-16-208 . Illegal concurrence by a director in a dividend or division of capital.**

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- 19778 (1)(a) For purposes of this section, "director" does not include a director of:
19779 (i) a savings and loan association; or
19780 (ii) a building and loan association.
19781 (b) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this
19782 section.
- 19783 (2) An actor commits illegal concurrence by a director in a dividend or division of capital if
19784 the actor:
19785 (a) [Every director of any] is a director of a stock corporation[-except savings and
19786 loan or building and loan associations who-] ; and
19787 (b) concurs in [any] a vote or act of [the] one or more directors of the corporation[-or any
19788 of them, by-] , which [it] vote or act is intended to either:
19789 [(1)] (i) [to make any-] make a dividend except as permitted by Title 16, Chapter 10a,
19790 Utah Revised Business Corporation Act; or
19791 [(2)] (ii) [to-]divide, withdraw, or in any manner pay to [the] one or more stockholders[;
19792 or any of them,] any part of the stated capital of the corporation except as
19793 permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act.
19794 (iii) [-] A violation of Subsection (2) is [guilty of-]a class B misdemeanor.
19795 Section 436. Section **76-16-209**, which is renumbered from Section 76-10-706 is renumbered
19796 and amended to read:
19797 **[76-10-706]76-16-209 . Unlawful omission or entry in a corporate or association record with**
19798 **the intent to defraud.**
- 19799 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.
19800 (2) An actor commits unlawful omission or entry in a corporate or association record with
19801 the intent to defraud if the actor:
19802 (a) [Every-] is:
19803 (i) a director, officer, or agent of [any] a corporation or association; or
19804 (ii) a person who aids or abets a person described in Subsection (2)(a)(i); and
19805 (b) [who] knowingly receives or possesses for the actor's self [himself of any] property
19806 of [such] the corporation or association, otherwise than in payment of a just demand[-
19807 and who,] ; and
19808 (c) with intent to defraud, omits to make, or to cause or direct to be made, a full and true

19809 entry [thereof] of the property described in Subsection (2)(b) in the books or accounts
19810 of the corporation or association[; and every director, officer, agent, or member of
19811 any corporation or association who embezzles, abstracts, or willfully misapplies any
19812 of the money, funds, or credits of the corporation or association; or who, without
19813 authority from the directors, issues or puts in circulation any of the notes of the
19814 corporation or association; or who, without the authority, issues or puts forth any
19815 certificate of deposit, draws any order or bill of exchange, makes any acceptance,
19816 assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or
19817 who makes any false entry in any book, report, or statement of the corporation or
19818 association; or who issues any fraudulent, fictitious, or illegal stock in any such
19819 corporation or association, with intent in either case to injure or defraud the
19820 corporation or association, or any other company, body politic, or corporate, or any
19821 individual person, or to deceive any officer of the corporation or association, or any
19822 agent appointed to examine the affairs of any such corporation or association; and
19823 every person who, with like intent, aids or abets any officer, clerk, or agent in any
19824 violation of this section is guilty of a felony of the third degree].

19825 (3) A violation of Subsection (2) is a third degree felony.

19826 Section 437. Section **76-16-210** is enacted to read:

19827 **76-16-210 . Unlawful embezzlement, abstraction, or misapplication of corporate**
19828 **or association funds.**

19829 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19830 (2) An actor commits unlawful embezzlement, abstraction, or misapplication of corporate
19831 or association funds if the actor:

19832 (a) is:

19833 (i) a director, officer, agent, or member of a corporation or association; or

19834 (ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

19835 (b) embezzles, abstracts, or willfully misapplies money, funds, or credits of the
19836 corporation or association.

19837 (3) A violation of Subsection (2) is a third degree felony.

19838 Section 438. Section **76-16-211** is enacted to read:

19839 **76-16-211 . Unlawful circulation of a corporate or association note.**

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19840 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19841 (2) An actor commits unlawful circulation of a corporation or association note if the actor:

19842 (a) is:

19843 (i) a director, officer, agent, or member of a corporation or association; or

19844 (ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

19845 (b) without the authority from a corporation's or association's directors, issues or puts in
19846 circulation a note of the corporation or association.

19847 (3) A violation of Subsection (2) is a third degree felony.

19848 Section 439. Section **76-16-212** is enacted to read:

19849 **76-16-212 . Unauthorized corporate or association action.**

19850 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19851 (2) An actor commits unauthorized corporate or association action if the actor:

19852 (a) is:

19853 (i) a director, officer, agent, or member of a corporation or association; or

19854 (ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

19855 (b) without having the authority to do so:

19856 (i) issues or puts forth a certificate of deposit;

19857 (ii) draws an order or bill of exchange;

19858 (iii) makes an acceptance; or

19859 (iv) assigns a note, bond, draft, bill of exchange, mortgage, judgment, or decree.

19860 (3) A violation of Subsection (2) is a third degree felony.

19861 Section 440. Section **76-16-213** is enacted to read:

19862 **76-16-213 . False entry in a corporate or association book, report, or statement.**

19863 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19864 (2) An actor commits false entry in a corporate or association book, report, or statement if
19865 the actor:

19866 (a) is:

19867 (i) a director, officer, agent, or member of a corporation or association; or

19868 (ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

19869 (b) makes a false entry in a corporate or association book, report, or statement, with the
19870 intent:

- 19871 (i) to injure or defraud:
19872 (A) the corporation or association;
19873 (B) any other company;
19874 (C) a body politic; or
19875 (D) an individual person; or
19876 (ii) to deceive:
19877 (A) an officer of the corporation or association; or
19878 (B) an agent appointed to examine the affairs of the corporation or association.
19879 (3) A violation of Subsection (2) is a third degree felony.

19880 Section 441. Section **76-16-214** is enacted to read:

19881 **76-16-214 . Unlawful stock issuance.**

- 19882 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.
19883 (2) An actor commits unlawful stock issuance if the actor:
19884 (a) is:
19885 (i) a director, officer, agent, or member of a corporation or association; or
19886 (ii) a person who aids or abets a person described in Subsection (2)(a)(i); and
19887 (b) issues fraudulent, fictitious, or illegal stock in the corporation or association, with
19888 the intent:
19889 (i) to injure or defraud:
19890 (A) the corporation or association;
19891 (B) any other company;
19892 (C) a body politic; or
19893 (D) an individual person; or
19894 (ii) to deceive:
19895 (A) an officer of the corporation or association; or
19896 (B) an agent appointed to examine the affairs of the corporation or association.
19897 (3) A violation of Subsection (2) is a third degree felony.

19898 Section 442. Section **76-16-215**, which is renumbered from Section 76-10-707 is renumbered
19899 and amended to read:

19900 **~~76-10-707~~76-16-215 . Making or publishing a report containing a false material statement.**

- 19901 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

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19902 (2) [Every] An actor commits making or publishing a report containing a false material
19903 statement if the actor:
19904 (a) is a director, officer, or agent of [any] a corporation or joint stock association; and
19905 (b) [who] knowingly makes or concurs in making or publishing [any] a written report,
19906 exhibit, or statement of [its] the corporation's or association's affairs or pecuniary
19907 condition[~~-, containing any-~~ that contains a false material statement[~~-which is false is~~
19908 guilty of a class B misdemeanor].

19909 (3) A violation of Subsection (2) is a class B misdemeanor.

19910 Section 443. Section **76-16-216**, which is renumbered from Section 76-10-708 is renumbered
19911 and amended to read:

19912 **[76-10-708]76-16-216 . Prohibited refusal of inspection or copying of corporate books.**

19913 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

19914 (2) [Every] An actor commits prohibited refusal of inspection or copying of corporate
19915 books if the actor:

19916 (a) is an officer or agent of [any] a corporation having or keeping an office within this
19917 state[~~-, who~~] :

19918 (b) has in [his] the actor's custody or control the books of [such] the corporation[~~-, and~~
19919 who] ; and

19920 (c) refuses to give to a bona fide stockholder of record or member of the corporation,
19921 lawfully [demanding] demanded during office hours, the right to inspect or take a
19922 copy of [it or of any part thereof, is guilty of a class B misdemeanor] all or part of the
19923 corporation's books.

19924 (3) A violation of Subsection (2) is a class B misdemeanor.

19925 Section 444. Section **76-16-301**, which is renumbered from Section 76-10-1001 is renumbered
19926 and amended to read:

19927 **Part 3. Offenses Concerning Trademarks, Trade Names, and Devices**

19928 **[76-10-1001]76-16-301 . Definitions.**

19929 [For the purpose of] As used in this part:

19930 (1) "Forged trademark," "forged trade name," "forged trade device," and "counterfeited
19931 trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents[
19932 ~~-, as used in this part,~~] include every alteration or imitation of [any] a trademark, trade

19933 name, or trade device [~~so resembling~~] that resembles the original so as to be likely to
19934 deceive.

19935 (2) "Trademark" or "trade name" or [~~"trade device," as used in this part,~~] "trade device"
19936 includes every trademark registrable with the Division of Corporations and Commercial
19937 Code.

19938 Section 445. Section **76-16-302**, which is renumbered from Section 76-10-1002 is renumbered
19939 and amended to read:

19940 **[76-10-1002]76-16-302 . Forging or counterfeiting a trademark, trade name, or trade device.**

19941 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

19942 (2) [~~Every person who-~~] An actor commits forging or counterfeiting a trademark, trade
19943 name, or trade device if the actor:

19944 (a) willfully forges or counterfeits, or procures to be forged or counterfeited, [any] a
19945 trademark, trade name, or trade device, that:

19946 (i) is usually affixed by [any] a person to the person's goods, or by [any] an association
19947 or union of [~~workingmen, to his or its~~] working people to the association's or
19948 union's goods[-] ; and

19949 (ii) [~~which-~~]has been filed with the Division of Corporations and Commercial Code[-]
19950 ; and

19951 (b) performs the action described in Subsection (2)(a) with the intent to pass off any
19952 goods to which the forged or counterfeited trademark, trade name, or trade device is
19953 affixed, or intended to be affixed, as the goods of the person or association or union
19954 of [~~workingmen, is guilty of a class B misdemeanor~~] working people.

19955 (3) A violation of Subsection (2) is a class B misdemeanor.

19956 Section 446. Section **76-16-303**, which is renumbered from Section 76-10-1003 is renumbered
19957 and amended to read:

19958 **[76-10-1003]76-16-303 . Selling goods under a counterfeited trademark, trade name, or**
19959 **trade device.**

19960 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.[

19961 Every person who-]

19962 (2) An actor commits selling goods under a counterfeited trademark, trade name, or trade
19963 device if the actor:

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19964 (a) sells or keeps for sale any goods upon or to which any counterfeited trademark, trade
19965 name, or trade device has been affixed, after ~~[it]~~ the trademark, trade name, or trade
19966 device has been filed with the Division of Corporations and Commercial Code~~;~~
19967 intending ;

19968 (b) intends to represent the goods as the genuine goods of another~~;~~ knowing it to be
19969 person; and

19970 (c) knows the goods are counterfeited.

19971 (3) ~~[, is guilty of a class B misdemeanor.]~~ A violation of Subsection (2) is a class B
19972 misdemeanor.

19973 Section 447. Section **76-16-304**, which is renumbered from Section 76-10-1004 is renumbered
19974 and amended to read:

19975 ~~[76-10-1004]~~ **76-16-304 . Sale in a container bearing a registered trademark of a substituted**
19976 **article.**

19977 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

19978 (2) ~~[Every person who]~~ An actor commits sale in a container bearing a registered
19979 trademark of a substituted article if the actor:

19980 (a) has or uses ~~[any]~~ a container or similar article ~~[bearing or having]~~ that bears or is in
19981 any way connected with ~~[it]~~ the registered trademark of another person; and

19982 (b) has or uses the container or article described in Subsection (2)(a) for the purpose of
19983 disposing, with intent to deceive or defraud, of ~~[any]~~ an article or substance other than
19984 that which the container or similar article originally contained or was connected with
19985 by the owner of ~~[such]~~ the trademark ~~[is guilty of a class B misdemeanor].~~

19986 (3) A violation of Subsection (2) is a class B misdemeanor.

19987 Section 448. Section **76-16-305**, which is renumbered from Section 76-10-1005 is renumbered
19988 and amended to read:

19989 ~~[76-10-1005]~~ **76-16-305 . Using, destroying, concealing, or possessing an article with a**
19990 **registered trademark or service mark to deprive the owner of use or possession.**

19991 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

19992 (2) ~~[Every person who]~~ An actor commits using, destroying, concealing, or possessing
19993 an article with a registered trademark or service mark to deprive the owner of use or

19994 possession if the actor, without the consent of the owner of an article bearing the owner's

19995 validly registered trademark or service mark~~[-]~~ , and with the intent to deprive the owner
19996 of the use or possession of the article:

19997 (a) uses, destroys, conceals, or possesses the article~~[-]~~ ; or ~~[who]~~

19998 (b) defaces or otherwise conceals the trademark or service mark ~~[upon]~~ on the article~~[~~
19999 with intent to deprive the owner of the use or possession of the article] .

20000 (3) A violation of Subsection (2) is ~~[guilty of]~~ a class B misdemeanor.

20001 (4) ~~[; provided, however, that nothing contained in this part shall be construed to apply to or~~
20002 ~~restrict]~~ This section does not apply to the transfer or use of a wooden ~~[boxes]~~ box or the
20003 re-use of a burlap or cotton ~~[bags or sacks]~~ bag or sack when ~~[those bags or sacks have]~~
20004 the bag or sack has been reversed inside out or the markings ~~[thereon]~~ on the box, bag, or
20005 sack have been concealed or obliterated to effectively demonstrate that the ~~[products]~~
20006 product contained ~~[therein do]~~ in the box, bag, or sack does not purport to be the [
20007 products] product of the owner of the registered trademark or service mark~~[theretofore~~
20008 put upon those bags] that appeared on the box, bag, or sack.

20009 Section 449. Section **76-16-306**, which is renumbered from Section 76-10-1006 is renumbered
20010 and amended to read:

20011 **~~[76-10-1006]~~76-16-306 . Selling, trafficking, or withholding an article bearing a registered**
20012 **trademark or service mark with intent to defraud.**

20013 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

20014 (2) ~~[Every person who]~~ An actor commits selling, trafficking, or withholding an article
20015 bearing a registered trademark or service mark with intent to defraud if the actor,
20016 without the consent of the owner of an article ~~[bearing]~~ that bears the owner's validly
20017 registered trademark or service mark, and with the intent to defraud the owner of the
20018 article, knowingly;

20019 (a) sells or traffics ~~[in the articles]~~ the article; or

20020 (b) ~~[who]~~ withholds the ~~[articles]~~ article from the article's owner~~[thereof with intent to~~
20021 defraud the owner thereof is guilty of] .

20022 (3) A violation of Subsection (2) is a class B misdemeanor.

20023 Section 450. Section **76-16-307**, which is renumbered from Section 76-10-1007 is renumbered
20024 and amended to read:

20025 **~~[76-10-1007]~~76-16-307 . Use of a registered trademark without consent.**

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20026 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

20027 (2) [Every person who] An actor commits use of a registered trademark without
20028 consent if the actor adopts or in any way uses [the] a registered trademark [of] owned by
20029 another person without the person's consent[~~of the owner thereof, is guilty of~~] .

20030 (3) A violation of Subsection (2) is a class B misdemeanor.

20031 Section 451. Section **76-16-401** is enacted to read:

20032 **Part 4. Offenses Concerning Unfair Market Discrimination**

20033 **76-16-401 . Definitions.**

20034 Reserved.

20035 Section 452. Section **76-16-402**, which is renumbered from Section 76-10-3002 is renumbered
20036 and amended to read:

20037 **[76-10-3002]76-16-402 . Unfair discrimination in competitive practices.**

20038 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

20039 (2) [Every] An actor commits unfair discrimination in competitive prices if the actor:

20040 (a) is a person engaged in the production, manufacture, or distribution of [any] a
20041 commodity in general use[~~who~~] ; and

20042 (b) intentionally, for the purpose of destroying the competition of [any] a regular,
20043 established dealer in [~~such~~] the commodity, or to prevent the competition of [any] a
20044 person who in good faith intends and attempts to become a dealer, discriminates
20045 between different sections, communities, or cities of this state by selling the
20046 commodity at a lower rate in one section, community, or city, or any portion [~~thereof~~]
20047 of the section, community, or city, than the [person] actor charges for the commodity
20048 in another section, community, or city, after equalizing the distance from the point of
20049 production, manufacture, or distribution and freight rates[~~therefrom, is guilty of~~
20050 unfair discrimination].

20051 (3) A violation of this section is subject to:

20052 (a) a fine of not less than \$500 and no more than \$4,000 for each offense; and

20053 (b) sanctions described in Subsection (4).

20054 (4)(a) If a complaint is made to the attorney general that a corporation has violated this
20055 section, the attorney general shall investigate the complaint, and for that purpose,
20056 may subpoena witnesses, administer oaths, take testimony, and require the production

20057 of books or other documents.

20058 (b) If in the attorney general's opinion, sufficient grounds exist for a prosecution after an
20059 investigation under Subsection (4)(a), the attorney general may prosecute an action in
20060 the name of the state to annul the charter or revoke the license of the corporation, and
20061 to permanently enjoin the corporation from doing business in this state.

20062 (c) If, in an action described in Subsection (4)(b), the court finds that the corporation is
20063 guilty of unfair discrimination under this section, the court shall annul the charter or
20064 revoke the license of the corporation and may permanently enjoin the corporation
20065 from transacting business in this state.

20066 Section 453. Section **76-16-403**, which is renumbered from Section 76-10-3001 is renumbered
20067 and amended to read:

20068 **[76-10-3001]76-16-403 . Fraudulent practice to affect market price.**

20069 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

20070 (2) [Every person who] An actor commits fraudulent practice to affect market price if
20071 the actor willfully makes or publishes [any] a false statement, spreads [any] a false rumor,
20072 or employs any other false or fraudulent means or device, with the intent to affect the
20073 market price of any kind of property[,-is guilty of a class B misdemeanor].

20074 (3) A violation of Subsection (2) is:

20075 (a) a class B misdemeanor; and

20076 (b) subject to a fine of not less than \$500 and no more than \$4,000 for each offense.

20077 Section 454. Section **76-16-404**, which is renumbered from Section 76-10-3005 is renumbered
20078 and amended to read:

20079 **[76-10-3005]76-16-404 . Unfair discrimination by a buyer of milk, cream, or butterfat.**

20080 (1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

20081 (2) [Any] An actor commits unfair discrimination by a buyer of milk, cream, or
20082 butterfat if the actor:

20083 (a) is:

20084 (i) a person doing business in this state [and] that is engaged in the business of buying
20085 milk, cream, or butterfat for the purpose of sale or storage[,-who,-] ; or

20086 (ii) an officer or agent of a person described in Subsection (2)(a)(i); and

20087 (b) for the purpose of creating a monopoly or destroying the business of a competitor,

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20088 discriminates between different sections, communities, localities, cities, or towns of
20089 this state by purchasing [~~the commodity or commodities~~] milk, cream, or butterfat at a
20090 higher price or rate in one section, community, location, city, or town than is paid for
20091 the same [~~commodity~~] milk, cream, or butterfat by the [~~person~~] actor in another
20092 section, community, locality, city, or town, after making due allowance for the
20093 difference, if any, in the grade or quality, and in the actual cost of transportation from
20094 the point of purchase to the point of manufacture, sale, or storage[~~, is guilty of unfair~~
20095 ~~discrimination, which is hereby prohibited and declared to be unlawful; and any~~
20096 ~~person, firm, company, association, or corporation, or any officer, agent, receiver, or~~
20097 ~~member of such firm, company, association, or corporation, found guilty of unfair~~
20098 ~~discrimination as herein defined shall be guilty of a class B misdemeanor].~~

20099 (3) A violation of Subsection (2) is:

20100 (a) a class B misdemeanor; and

20101 (b) subject to a fine of not less than \$500 and no more than \$4,000 for each offense.

20102 Section 455. Section **76-16-501**, which is renumbered from Section 76-10-3103 is renumbered
20103 and amended to read:

20104 **Part 5. Antitrust Offenses**

20105 **[76-10-3103] 76-16-501 . Definitions.**

20106 As used in this part:

20107 (1) "Attempt to monopolize" means action taken without a legitimate business purpose and
20108 with a specific intent of destroying competition or controlling prices to substantially
20109 lessen competition, or creating a monopoly, where there is a dangerous probability of
20110 creating a monopoly.

20111 (2) "Attorney general" means the attorney general of the state or one of the attorney
20112 general's assistants.

20113 (3) "Commodity" includes [~~any~~] a product of the soil, [~~any~~] an article of merchandise or
20114 trade or commerce, and any other kind of real or personal property.

20115 (4) "Manufacturer" means the producer or originator of [~~any~~] a commodity or service.

20116 (5) "Service" includes [~~any~~] an activity that is performed in whole or in part for the purpose
20117 of financial gain including, but not limited to, personal service, professional service,
20118 rental, leasing or licensing for use.

20119 (6) "Trade or commerce" includes all economic activity involving, or relating to, [any] a
20120 commodity, service, or business activity, including the cost of exchange or
20121 transportation.

20122 Section 456. Section **76-16-502**, which is renumbered from Section 76-10-3102 is renumbered
20123 and amended to read:

20124 **[76-10-3102] 76-16-502 . Legislative findings -- Interpretation of part.**

20125 (1)(a) The Legislature finds and determines that competition is fundamental to the free
20126 market system and that the unrestrained interaction of competitive forces will yield the best
20127 allocation of our economic resources, the lowest prices, the highest quality and the greatest
20128 material progress, while at the same time providing an environment conducive to the
20129 preservation of our democratic, political and social institutions.

20130

20131 (b) The purpose of this [~~act is, therefore, to~~] part is to encourage free and open
20132 competition in the interest of the general welfare and economy of this state by
20133 prohibiting monopolistic and unfair trade practices, combinations and conspiracies in
20134 restraint of trade or commerce and by providing adequate penalties for the
20135 enforcement of [its] the part's provisions.

20136 (2) The Legislature intends that the courts, in construing this part, will be guided by
20137 interpretations given by the federal courts to comparable federal antitrust statutes and by
20138 other state courts to comparable state antitrust statutes.

20139 Section 457. Section **76-16-503**, which is renumbered from Section 76-10-3117 is renumbered
20140 and amended to read:

20141 **[76-10-3117] 76-16-503 . Statute of limitations.**

20142 (1) [~~Any~~] An action brought by the attorney general pursuant to this [act] part is barred if [it]
20143 the action is not commenced within four years after the cause of action accrues.

20144 (2) Any other action pursuant to this [act] part is barred if [it] the action is not commenced
20145 within four years after the cause of action accrues, or within one year after the
20146 conclusion of an action brought by the state pursuant to this act based in whole or in part
20147 on any matter complained of in the subsequent action, whichever is the latter.

20148 Section 458. Section **76-16-504**, which is renumbered from Section 76-10-3105 is renumbered
20149 and amended to read:

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20150 ~~[76-10-3105]~~76-16-504 . Exempt activities.

20151 [(+)]

20152 (1) This act may not be construed to prohibit:

20153 (a) the activities of [~~any~~] a public utility to the extent that those activities are subject to
20154 regulation by the public service commission, the state or federal department of
20155 transportation, the federal energy regulatory commission, the federal communications
20156 commission, the interstate commerce commission, or successor agencies;

20157 (b) the activities of [~~any~~] an insurer, insurance producer, independent insurance adjuster,
20158 or rating organization including, but not limited to, making or participating in joint
20159 underwriting or reinsurance arrangements, to the extent that those activities are
20160 subject to regulation by the commissioner of insurance;

20161 (c) the activities of securities dealers, issuers, or agents, to the extent that those activities
20162 are subject to regulation under the laws of either this state or the United States;

20163 (d) the activities of [~~any~~] a state or national banking institution, to the extent that the
20164 activities are regulated or supervised by state government officers or agencies under
20165 the banking laws of this state or by federal government officers or agencies under the
20166 banking laws of the United States;

20167 (e) the activities of [~~any~~] a state or federal savings and loan association to the extent that
20168 those activities are regulated or supervised by state government officers or agencies
20169 under the banking laws of this state or federal government officers or agencies under
20170 the banking laws of the United States;

20171 (f) the activities of a political subdivision to the extent authorized or directed by state
20172 law, consistent with the state action doctrine of federal antitrust law; or

20173 (g) the activities of an emergency medical service provider licensed under Title 53,
20174 Chapter 2d, Emergency Medical Services Act, to the extent that those activities are
20175 regulated by state government officers or agencies under that act.

20176 (2)(a) The labor of a human being is not a commodity or article of commerce.

20177 (b) Nothing contained in the antitrust laws shall be construed to forbid the existence and
20178 operation of labor, agricultural, or horticultural organizations, instituted for the
20179 purpose of mutual help and not having capital stock or conducted for profit, or to
20180 forbid or restrain individual members of these organizations from lawfully carrying

20181 out ~~[their]~~ the organizations' legitimate objects; nor may these organizations or
20182 membership in them be held to be illegal combinations or conspiracies in restraint of
20183 trade under the antitrust laws.

20184 (3)(a) As used in this section, an entity is also a ~~[municipality]~~ political subdivision if
20185 the entity was formed under Title 11, Chapter 13, Interlocal Cooperation Act, prior to
20186 January 1, 1981, and the entity is:

20187 (i) a project entity as defined in Section 11-13-103; (ii) an electric interlocal entity as
20188 defined in Section 11-13-103; or (iii) an energy services interlocal entity as defined in
20189 Section 11-13-103. (b) The activities of the entities under Subsection (3)(a) are
20190 authorized or directed by state law.

20191 Section 459. Section **76-16-505**, which is renumbered from Section 76-10-3106 is renumbered
20192 and amended to read:

20193 ~~[76-10-3106]~~ **76-16-505 . Attorney General's powers -- Investigations -- Institution of actions**
20194 **-- Cooperation.**

20195 (1) The attorney general may investigate a suspected ~~[violations]~~ violation of this ~~[aet]~~ part
20196 and institute an appropriate ~~[actions]~~ action regarding ~~[those]~~ the suspected ~~[violations]~~
20197 violation as provided in this ~~[aet]~~ part.

20198 (2) ~~[Any violations of this act which come]~~

20199 (a) A violation of this part that comes to the attention of ~~[any]~~ a state government officer
20200 or agency shall be reported to the attorney general.

20201 (b) All state government officers and agencies shall cooperate with, and assist in, ~~[any]~~ a
20202 prosecution for violation of this ~~[aet]~~ part.

20203 (3) The attorney general may proceed under any antitrust laws in the state or federal courts
20204 on behalf of this state, any of ~~[its]~~ the state's political subdivisions or agencies, or as
20205 parens patriae on behalf of natural persons in this state.

20206 Section 460. Section **76-16-506**, which is renumbered from Section 76-10-3107 is renumbered
20207 and amended to read:

20208 ~~[76-10-3107]~~ **76-16-506 . Civil antitrust investigations -- Demand for production of**
20209 **documents and responses to written interrogatories -- Oral examination -- Judicial**
20210 **order for compliance -- Confidentiality -- Subpoenas precluded.**

20211 (1) When the attorney general has reasonable cause to believe that ~~[any]~~ a person may be in

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20212 possession, custody, or control of any information, including [any] a document, material,
20213 or testimony, relevant to a civil antitrust investigation, the attorney general may, [prior
20214 to] before the commencement of a civil action, issue and cause to be served upon that
20215 person a written civil investigative demand requesting that person to:

- 20216 (a) produce any document or material for inspection, copying, or reproduction by the
20217 state where the document or material is located or produced;
- 20218 (b) give oral testimony under oath, concerning the subject of the investigation;
- 20219 (c) respond to written interrogatories; or
- 20220 (d) furnish any combination of these.

20221 (2)(a) Each demand shall state:

- 20222 (i) the nature of the activities under investigation, constituting the alleged antitrust
20223 violation, which may result in a violation of this part and the applicable provision
20224 of law;
- 20225 (ii) that the recipient is entitled to counsel;
- 20226 (iii) that the information received in response to the demand may be used in a civil or
20227 criminal proceeding;
- 20228 (iv) that if the recipient does not comply with the demand, the attorney general may
20229 compel compliance by appearance, upon reasonable notice to the recipient, before
20230 the [district] court in the judicial district where the recipient resides or does
20231 business and only upon a showing before that [district] court that the requirements
20232 of Subsection (7) have been met;
- 20233 (v) that the recipient has the right at any time before the return date of the demand, or
20234 within 30 days, whichever period is shorter, to seek a court order determining the
20235 validity of the demand; and
- 20236 (vi) that at any time during the proceeding the person may assert any applicable
20237 privilege.

20238 (b) If the demand is for production of [any] a document or material, the demand shall
20239 also:

- 20240 (i) describe the document or material to be produced with sufficient definiteness and
20241 certainty as to permit the document or material to be fairly identified;
- 20242 (ii) prescribe return dates that provide a reasonable period of time within which the

- 20243 document or material demanded may be assembled and made available for
20244 inspection and reproduction; and
- 20245 (iii) identify the individual at the Office of the Attorney General to whom the
20246 document or material shall be made available.
- 20247 (c) If the demand is for the giving of oral testimony, the demand shall also:
- 20248 (i) prescribe the date, time, and place at which oral testimony shall be commenced;
- 20249 (ii) state that an employee of the Office of the Attorney General shall conduct the
20250 examination; and
- 20251 (iii) state that the recording or the transcript of the examination shall be submitted to
20252 and maintained by the Office of the Attorney General.
- 20253 (d) If the demand is for responses to written interrogatories, the demand shall also:
- 20254 (i) state that each interrogatory shall be answered separately and fully in writing and
20255 under oath, unless the person objects to the interrogatory, in which event the
20256 reasons for objection shall be stated in lieu of an answer;
- 20257 (ii) state that the answers are to be signed by the person making them, and the
20258 objections are to be signed by the attorney making them;
- 20259 (iii) identify by name and address the individual at the Office of the Attorney General
20260 on whom answers and objections provided under this Subsection (2)(d) are to be
20261 served; and
- 20262 (iv) prescribe the date on or before which these answers and objections are to be
20263 served on the identified individual.
- 20264 (3) The civil investigative demand may be served upon any person who is subject to the
20265 jurisdiction of any Utah court and shall be served upon the person in the manner
20266 provided for service of a subpoena.
- 20267 (4)(a) [~~Any~~] A document or material submitted in response to a demand served under
20268 this section shall be accompanied by an affidavit, in the form the demand designates,
20269 by the person, if a natural person, to whom the demand is directed or, if not a natural
20270 person, by a person having knowledge of the facts and circumstances relating to the
20271 production.
- 20272 (b) The affidavit shall state that every document or material required by the demand and
20273 in the possession, custody, or control of the person to whom the demand is directed

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- 20274 has in good faith been produced and made available to the Office of the Attorney
20275 General.
- 20276 (c) The affidavit shall identify any demanded document or material that is not produced
20277 and state the reason why each item was not produced.
- 20278 (5)(a)(i) An examination of ~~[any]~~ a person pursuant to a demand for oral testimony
20279 served under this section may only be taken before an officer authorized to
20280 administer oaths or affirmations by the laws of the United States or of the place
20281 where the examination is held.
- 20282 (ii) The officer before whom the testimony is to be taken shall put the witness on oath
20283 or affirmation and shall personally, or by someone acting under the officer's
20284 direction and in the officer's presence, record the testimony of the witness.
- 20285 (iii) If the testimony is taken stenographically, ~~[it]~~ the testimony shall be transcribed
20286 and the officer before whom the testimony is taken shall promptly transmit the
20287 transcript of the testimony to the Office of the Attorney General.
- 20288 (b) When taking oral testimony, all persons other than personnel from the Office of the
20289 Attorney General, the witness, counsel for the witness, and the officer before whom
20290 the testimony is to be taken shall be excluded from the place where the examination
20291 is held.
- 20292 (c) The oral testimony of ~~[any]~~ a person taken pursuant to a demand served under this
20293 section shall be taken in the county where the person resides or transacts business or
20294 in any other place agreed upon by the attorney general and the person.
- 20295 (d)(i) When testimony is fully transcribed, the transcript shall be certified by the
20296 officer before whom the testimony was taken and submitted to the witness for
20297 examination and signing, in accordance with Rule 30(e) of the Utah Rules of Civil
20298 Procedure~~[-Rule 30(e)]~~.
- 20299 (ii) A copy of the deposition shall be furnished free of charge to a witness upon the
20300 witness's request.
- 20301 (e) ~~[Any]~~ A change in testimony recorded by nonstenographic means shall be made in
20302 the manner provided in Rule 30 of the Utah Rules of Civil Procedure~~[-Rule 30,-]~~ for
20303 changing deposition testimony recorded by nonstenographic means.
- 20304 (f) ~~[Any]~~

- 20305 (i) A person compelled to appear under a demand for oral testimony under this
20306 section may be accompanied, represented, and advised by counsel.
- 20307 (ii) Counsel may advise the person, in confidence, either upon the request of the
20308 person or upon counsel's own initiative, with respect to any question asked of the
20309 person.
- 20310 (iii) The person or counsel may object on the record to any question, in whole or in
20311 part, and shall briefly state for the record the reason for the objection.
- 20312 (iv) An objection may properly be made, received, and entered upon the record when
20313 it is claimed that the person is entitled to refuse to answer the question on grounds
20314 of any constitutional or other legal right or privilege, including the privilege
20315 against self-incrimination.
- 20316 (v) If the person refuses to answer any question, the attorney general may petition the
20317 district court for an order compelling the person to answer the question.
- 20318 (g) If [~~any~~] a person compelled to appear under a demand for oral testimony or other
20319 information pursuant to this section refuses to answer any questions or produce
20320 information on grounds of the privilege against self-incrimination, the testimony of
20321 that person may be compelled as in criminal cases.
- 20322 (h) [~~Any~~]
- 20323 (i) A person appearing for oral examination pursuant to a demand served under this
20324 section is entitled to the same fees and mileage [~~which~~] that are paid to witnesses
20325 in the district courts of the state of Utah.
- 20326 (ii) Witness fees and expenses shall be tendered and paid as in any civil action.
- 20327 (6) The providing of [~~any~~] information in response to a civil investigative demand issued
20328 pursuant to the provisions of this part shall be considered part of an official proceeding
20329 as defined in Section 76-8-501.
- 20330 (7)(a)(i) If a person fails to comply with the demand served upon [~~him~~] the person
20331 under this section, the attorney general may file in the district court of the county
20332 in which the person resides, is found, or does business, a petition for an order
20333 compelling compliance with the demand.
- 20334 (ii) Notice of hearing of the petition and a copy of the petition shall be served upon
20335 the person, who may appear in opposition to the petition.

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20336 (iii) If the court finds that the demand is proper, that there is reasonable cause to
20337 believe there has been a violation of this part, and that the information sought is
20338 relevant to the violation, [it] the court shall order the person to comply with the
20339 demand, subject to modifications the court may prescribe.

20340 (b)(i)(A) At any time before the return date specified in a demand or within 30
20341 days after the demand has been served, whichever period is shorter, the person
20342 who has been served may file a petition for an order modifying or setting aside
20343 the demand.

20344 (B) This petition shall be filed in the [~~district~~]court in the county of the person's
20345 residence, principal office, or place of business, or in the [~~district~~]court in Salt
20346 Lake County.

20347 (C) The petition shall specify each ground upon which the petitioner relies in
20348 seeking the relief sought.

20349 (D) The petition may be based upon [~~any~~] a failure of the demand to comply with
20350 the provisions of this section or upon any constitutional or other legal right or
20351 privilege of the petitioner.

20352 (E) The petitioner shall serve notice of hearing of the petition and a copy of the
20353 petition upon the attorney general.

20354 (F) The attorney general may submit an answer to the petition within 30 days after
20355 receipt of the petition.

20356 (ii)(A) After a hearing on the petition described in Subsection (7)(b)(i), and for
20357 good cause shown, the court may make any further order in the proceedings
20358 that justice requires to protect the person from unreasonable annoyance,
20359 embarrassment, oppression, burden, or expense.

20360 (B) At [~~any~~] a hearing pursuant to this section it is the attorney general's burden to
20361 establish that the demand is proper, that there is reasonable cause to believe
20362 that there has been a violation of this part, and that the information sought is
20363 relevant to the violation.

20364 (8)(a) The attorney general may enter into a confidentiality agreement in lieu of, or in
20365 addition to, issuing a civil investigative demand, when the attorney general has
20366 reasonable cause to believe that [~~any~~] a person may be in possession, custody, or

20367 control of [~~any~~]information relevant to a civil antitrust investigation or civil antitrust
20368 action.

20369 (b) In [~~any~~] a civil antitrust action, the court may issue a confidentiality order, which may
20370 incorporate a confidentiality agreement.

20371 (c)(i) The confidentiality agreement or confidentiality order may address any
20372 procedure, testimony taken, or document or material produced under this section.

20373 (ii) The agreement or order may define to whom access will be given, the conditions
20374 and the restrictions to the access, and how the testimony, document, or material
20375 will be safeguarded.

20376 (iii) The agreement or order may require that documentation of testimony and any
20377 other document or material:
20378 [(i)] (A) be returned to the designated person; or
20379 [(ii)] (B) notwithstanding the provisions of Section 63A-12-105 and any retention
20380 schedule promulgated pursuant to Section 63G-2-604, be destroyed by the
20381 attorney general at a designated time, in which case this requirement is binding
20382 upon the attorney general.

20383 (9)(a) Any procedure, testimony taken, or document or material produced under this
20384 section, whether produced pursuant to a civil investigative demand, confidentiality
20385 agreement, or confidentiality order, shall be kept confidential by the attorney general
20386 unless confidentiality is waived in writing by the person who has testified, or
20387 produced a document or material.

20388 (b) Any testimony taken or document or material produced under this section may be
20389 used in a civil antitrust action, provided that the use is not restricted or prohibited
20390 under a confidentiality agreement or confidentiality order, unless that restriction or
20391 prohibition is waived by the person from whom the information was obtained.

20392 (c) Notwithstanding any other provision of this section, the attorney general may
20393 disclose testimony taken or a document or material obtained under this section,
20394 without either the consent of the person from whom it was received or the person
20395 being investigated, to:

20396 (i) [~~any~~] a grand jury; and
20397 (ii) officers and employees of federal or state law enforcement agencies, provided the

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20398 person from whom the information was obtained is notified 20 days prior to
20399 disclosure, and the federal or state law enforcement agency certifies that the
20400 information will be:

20401 (A) maintained in confidence, as required by Subsection (9)(a); and

20402 (B) used only for official law enforcement purposes.

20403 (10) Use of a civil investigative demand under this action precludes the invocation by the
20404 attorney general of Section 77-22-2.

20405 Section 461. Section **76-16-507**, which is renumbered from Section 76-10-3116 is renumbered
20406 and amended to read:

20407 ~~[76-10-3116]~~ **76-16-507 . Venue of an action brought by the state -- Transfer.**

20408 [Any] An action brought by the state pursuant to this [aet] part shall be brought in
20409 any county [~~wherein~~] in which the defendant resides or does business, or at the option of
20410 the defendant, [~~such~~] the action shall be transferred, upon motion made within 30 days
20411 after commencement of the action, to Salt Lake County.

20412 Section 462. Section **76-16-508**, which is renumbered from Section 76-10-3115 is renumbered
20413 and amended to read:

20414 ~~[76-10-3115]~~ **76-16-508 . Attorney general to advocate for the policy of competition.**

20415 The attorney general [~~shall have~~] has the authority and responsibility to advocate
20416 for the policy of competition before all political subdivisions of this state and all public
20417 agencies whose actions may affect the interests of persons in this state.

20418 Section 463. Section **76-16-509**, which is renumbered from Section 76-10-3108 is renumbered
20419 and amended to read:

20420 ~~[76-10-3108]~~ **76-16-509 . Attorney general may bring action for injunctive relief, damages,
20421 and civil penalty.**

20422 (1) The attorney general may bring an action for appropriate injunctive relief, a civil
20423 penalty, and damages in the name of the state, any of [its] the state's political
20424 subdivisions or agencies, or as parens patriae on behalf of natural persons in this state,
20425 for a violation of this [aet] part.

20426 (2) Actions may be brought under this [~~section~~] part regardless of whether the plaintiff dealt
20427 directly or indirectly with the defendant.

20428 (3) This remedy is an additional remedy to any other remedies provided by law[~~-It~~] and

20429 may not diminish or offset any other remedy.

20430 [(2)] (4)(a) ~~[Any]~~ An individual who violates this act is subject to a civil penalty of not
20431 more than \$100,000 for each violation.

20432 (b) ~~[Any]~~ A person, other than an individual, who violates this act is subject to a civil
20433 penalty of not more than \$500,000 for each violation.

20434 Section 464. Section **76-16-510**, which is renumbered from Section 76-10-3104 is renumbered
20435 and amended to read:

20436 **~~[76-10-3104]~~76-16-510 . Illegal anticompetitive activities.**

20437 (1) Every contract, combination in the form of trust or otherwise, or conspiracy in restraint
20438 of trade or commerce is declared to be illegal. (2) It ~~[shall be]~~ is unlawful for any person to
20439 monopolize, or attempt to monopolize, or combine or conspire with any other person or
20440 persons to monopolize, any part of trade or commerce.

20441 Section 465. Section **76-16-511**, which is renumbered from Section 76-10-3109 is renumbered
20442 and amended to read:

20443 **~~[76-10-3109]~~76-16-511 . Person may bring action for injunctive relief and damages -- Treble**
20444 **damages -- Recovery of actual damages or civil penalty by state or political**
20445 **subdivisions -- Immunity of political subdivisions from damages, costs, or attorney**
20446 **fees -- Conviction as prima facie evidence.**

20447 (1)(a)(i) A person who is a citizen of this state or a resident of this state and who is
20448 injured or is threatened with injury in ~~[his]~~ the person's business or property by a
20449 violation of ~~[the Utah Antitrust Act]~~ this part may bring an action for injunctive
20450 relief and damages, regardless of whether the person dealt directly or indirectly
20451 with the defendant.

20452 (ii) This remedy is in addition to any other remedies provided by law~~[-It]~~ and may
20453 not diminish or offset any other remedy.

20454 (b) Subject to the provisions of Subsections (3), (4), and (5), the court shall award three
20455 times the amount of damages sustained, plus the cost of suit and a reasonable
20456 attorney fees, in addition to granting any appropriate temporary, preliminary, or
20457 permanent injunctive relief.

20458 (2)(a) If the court determines that a judgment in the amount of three times the damages
20459 awarded plus attorney fees and costs will directly cause the insolvency of the

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- 20460 defendant, the court shall reduce the amount of judgment to the highest sum that
20461 would not cause the defendant's insolvency.
- 20462 (b) The court may not reduce a judgment to an amount less than the amount of damages
20463 sustained plus the costs of suit and reasonable attorney fees.
- 20464 (3) The state or any of its political subdivisions may recover three times the amount of
20465 damages it sustains and the civil penalty provided by [~~the Utah Antitrust Act~~] this part, in
20466 addition to injunctive relief, costs of suit, and reasonable attorney fees.
- 20467 (4) No damages, costs, or attorney fees may be recovered under this section:
- 20468 (a) from any political subdivision;
- 20469 (b) from the official or employee of any political subdivision acting in an official
20470 capacity; or
- 20471 (c) against any person based on any official action directed by a political subdivision or [
20472 its] the political subdivision's official or employee acting in an official capacity.
- 20473 (5) Subsection (4) does not apply to cases filed before April 27, 1987, unless the defendant
20474 establishes and the court determines that in light of all the circumstances, including the
20475 posture of litigation and the availability of alternative relief, it would be inequitable not
20476 to apply Subsection (4) to a pending case.
- 20477 (6)(a) When a defendant has been sued in one or more actions by both direct and
20478 indirect purchasers, whether in state court or federal court, a defendant shall be
20479 entitled to prove as a partial or complete defense to a claim for damages that the
20480 damages incurred by the plaintiff or plaintiffs have been passed on to others who are
20481 entitled to recover so as to avoid duplication of recovery of damages.
- 20482 (b) In an action by indirect purchasers, any damages or settlement amounts paid to direct
20483 purchasers for the same alleged antitrust violations shall constitute a defense in the
20484 amount paid on a claim by indirect purchasers under this [~~chapter~~] part so as to avoid
20485 duplication of recovery of damages.
- 20486 (7)(a) It shall be presumed, in the absence of proof to the contrary, that the injured
20487 persons who dealt directly with the defendant incurred at least 1/3 of the damages,
20488 and shall, therefore, recover at least 1/3 of the awarded damages.
- 20489 (b) It shall also be presumed, in the absence of proof to the contrary, that the injured
20490 persons who dealt indirectly with the defendant incurred at least 1/3 of the damages,

20491 and shall, therefore, recover at least 1/3 of the awarded damages.

20492 (c) The final 1/3 of the damages shall be awarded by the court to those injured persons
20493 determined by the court as most likely to have absorbed the damages.

20494 (8)(a) There is a presumption, in the absence of proof to the contrary and subject to
20495 Subsection (7), that each level in a product's or service's distribution chain passed on
20496 any and all increments in its cost due to an increase in the cost of an ingredient or a
20497 component product or service that was caused by a violation of this ~~[chapter]~~ part.

20498 (b) ~~[This]~~ The amount described in Subsection (8)(a) will be presumed, in the absence of
20499 evidence to the contrary, to be equal to the change in the cost, in dollars and cents, of
20500 the ingredient, component product, or service to its first purchaser.

20501 (9)(a) The attorney general shall be notified by the plaintiff about the filing of ~~[any]~~ a
20502 class action involving antitrust violations that includes plaintiffs from this state.

20503 (b) The attorney general shall receive a copy of each filing described in Subsection (9)(a)
20504 from each plaintiff.

20505 (c) The attorney general may, in his or her discretion, intervene or file amicus briefs in
20506 the case, and may be heard on the question of the fairness or appropriateness of any
20507 proposed settlement agreement.

20508 (10) If, in a class action or parens patriae action filed under this ~~[chapter]~~ part, including the
20509 settlement of ~~[any]~~ an action, it is not feasible to return any part of the recovery to the
20510 injured plaintiffs, the court shall order the residual funds be applied to benefit the
20511 specific class of injured plaintiffs, to improve antitrust enforcement generally by
20512 depositing the residual funds into the Attorney General Litigation Fund created by
20513 Section ~~[76-10-3114]~~ 67-5-40, or both.

20514 (11) In ~~[any]~~ an action brought under this ~~[chapter]~~ part, the court shall approve all attorney
20515 fees and arrangements for the payment of attorney fees, including contingency fee
20516 agreements.

20517 (12)(a) Except as provided in Subsection (12)(b), in an action brought by the state, a
20518 final judgment or decree determining that a person has criminally violated this part is
20519 prima facie evidence against that person in an action brought under this section as to
20520 all matters with respect to which the judgment or decree would be an estoppel
20521 between the parties to the judgment or decree.

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20522 (b) Subsection (12)(a) does not apply to a judgment entered under a no contest plea or a
20523 decree entered before any testimony has been taken.

20524 Section 466. Section **76-16-512**, which is renumbered from Section 76-10-3112 is renumbered
20525 and amended to read:

20526 **[76-10-3112] 76-16-512 . Fine for violation -- Certain vertical agreements excluded -- Nolo**
20527 **contendere.**

20528 (1)(a) Any person who violates Section [76-10-3104] 76-16-510 by price fixing, bid
20529 rigging, agreeing among competitors to divide customers or territories, or by
20530 engaging in a group boycott with specific intent of eliminating competition is guilty
20531 of a third degree felony and, notwithstanding Sections 76-3-301 and 76-3-302, is
20532 subject to:

20533 (i) if an individual, a fine not to exceed \$100,000; or

20534 (ii) if by a person other than an individual, a fine not to exceed \$500,000.

20535 (b) Subsection (1)(a) may not be construed to include vertical agreements between a
20536 manufacturer, its distributors, or their subdistributors dividing customers and
20537 territories solely involving the manufacturer's commodity or service where the
20538 manufacturer distributes its commodity or service both directly and through
20539 distributors or subdistributors in competition with itself.

20540 (2)(a) A defendant may plead nolo contendere to a charge brought under this title but
20541 only with the consent of the court.

20542 (b) The court may accept the plea only after due consideration of the views of the parties
20543 and the interest of the public in the effective administration of justice.

20544 Section 467. Section **76-17-101** is enacted to read:

20545 **CHAPTER 17. OFFENSES CONCERNING KICKBACKS, PYRAMID**

SCHEMES, AND PATTERNS OF UNLAWFUL ACTIVITY

20547 **Part 1. General Provisions**

20548 **76-17-101 . Definitions.**

20549 Reserved.

20550 Section 468. Section **76-17-201** is enacted to read:

20551 **Part 2. Offenses Concerning Kickbacks**

20552 **76-17-201 . Definitions.**

20553 As used in this part:

20554 (1) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration,

20555 that is:

20556 (a) direct or indirect;

20557 (b) overt or covert; or

20558 (c) in cash or in kind.

20559 (2) "Kickback or bribe" does not include:

20560 (a) a fee that is:

20561 (i) shared between two or more individuals, each of whom is licensed to practice law;

20562 and

20563 (ii) charged for services provided in the individual's capacity as a licensee described

20564 in Subsection (2)(a)(i); or

20565 (b) payment for medical services rendered.

20566 Section 469. Section **76-17-202**, which is renumbered from Section 76-10-3201 is renumbered
20567 and amended to read:

20568 **[76-10-3201] 76-17-202 . Unlawful conduct concerning a kickback or bribe.**

20569 [~~(1) As used in this section:~~]

20570 [~~(a) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration,~~

20571 ~~that is:]~~

20572 [~~(i) direct or indirect;~~]

20573 [~~(ii) overt or covert; or~~]

20574 [~~(iii) in cash or in kind.]~~]

20575 [~~(b) "Kickback or bribe" does not include:~~]

20576 [~~(i) a fee that is:]~~

20577 [~~(A) shared between two or more individuals, each of whom is licensed to practice law;~~

~~and]~~

20578 [~~(B) charged for services provided in the individual's capacity as a licensee described in~~

~~Subsection (1)(b)(i)(A); or]~~

20579 [~~(ii) payment for medical services rendered.]~~]

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20581 [(2)] (1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-201 apply to this
20582 section.

20583 (2)[(a)] An actor commits unlawful conduct concerning a kickback or bribe if the actor:

20584 (a) [~~may not solicit or receive-~~] solicits or receives a kickback or bribe in return for the
20585 referral of a person to another person for the furnishing of [any] a good or service that
20586 relates to [any] an insurance claim or a claim for damages[-] ; or

20587 (b) [~~An actor may not offer or pay-~~] offers or pays a kickback or bribe to induce the
20588 referral of a person to another person for the furnishing of [any] a good or service that
20589 relates to [any] an insurance claim or a claim for damages.

20590 (3) A violation of Subsection (2) is a third degree felony.

20591 (4)(a) This section does not apply to an individual licensed to practice law or a medical
20592 provider when referring a client for medical treatment or evaluation, if the referral is
20593 made without compensation.

20594 [(5)] (b) This section does not apply to an individual licensed to practice law when:

20595 [(a)] (i) paying a lien, contractual reimbursement, or medical bill on behalf of a client
20596 from proceeds of a settlement or judgment; or

20597 [(b)] (ii) marketing to, or engaging in client development activities with, an individual
20598 licensed to provide medical treatment or evaluation, if the marketing or client
20599 development activities are not for the purpose of inducing the individual licensed
20600 to provide medical treatment or evaluation to refer a particular person to the
20601 individual licensed to practice law.

20602 Section 470. Section **76-17-301**, which is renumbered from Section 76-6a-101 is renumbered
20603 and amended to read:

20604 **Part 3. Offenses Concerning Pyramid Schemes**

20605 **~~76-6a-101~~76-17-301 . Definitions.**

20606 As used in this [chapter] part:

20607 [(1)(a)] (1)[(1)] (a) "Compensation" means money, money bonuses, overrides, prizes, or
20608 other real or personal property, tangible or intangible.

20609 [(ii)] (b) "Compensation" does not include payment based on the sale of goods or
20610 services to anyone purchasing the goods or services for actual personal use or
20611 consumption.

20612 [(b)] (2) "Consideration" does not include:
20613 [(i)] (a) payment for sales demonstration equipment or materials furnished at cost for use
20614 in making sales and not for resale; or
20615 [(ii)] (b) time or effort spent in selling or recruiting activities.

20616 [(e)] (3) "Person" includes a business trust, estate, trust, joint venture, or any other legal or
20617 commercial entity.

20618 [(d)] (4) "Pyramid scheme" means [any] a sales device or plan under which a person gives
20619 consideration to another person in exchange for compensation or the right to receive
20620 compensation that is derived primarily from the introduction of other persons into the
20621 sales device or plan rather than from the sale of goods, services, or other property.

20622 [(2)] Terms defined in Section 76-1-101.5 apply to this part.]

20623 Section 471. Section **76-17-302**, which is renumbered from Section 76-6a-104 is renumbered
20624 and amended to read:

20625 **[76-6a-104]76-17-302 . Rights of person giving consideration in pyramid scheme.**

20626 (1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

20627 (2)(a) [Any] A person giving consideration in connection with a pyramid scheme may,
20628 notwithstanding any agreement to the contrary, declare the person's giving of
20629 consideration and the related sale or contract for sale void, and may bring a court
20630 action to recover the consideration.

20631 (b) In an action brought under Subsection [(1)(a)] (2)(a), the court shall, in addition to
20632 any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff
20633 interest as provided in Section 15-1-4, reasonable attorneys' fees, and the costs of the
20634 action reduced by any compensation paid by the defendant to the plaintiff in
20635 connection with the pyramid scheme.

20636 [(2)] (3)(a) The rights, remedies, and penalties provided in this [chapter] part are
20637 independent of and supplemental to each other and to any other right, remedy or
20638 penalty available in law or equity.

20639 (b) Nothing contained in this [chapter] part shall be construed to diminish or abrogate
20640 any other right, remedy or penalty.

20641 Section 472. Section **76-17-303**, which is renumbered from Section 76-6a-102 is renumbered
20642 and amended to read:

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20643 **~~[76-6a-102]~~76-17-303 . Conducting a pyramid scheme.**

20644 (1) Terms defined in ~~[Section]~~ Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this
20645 section.

20646 (2) An actor commits ~~[the offense of]~~ conducting a pyramid scheme if the actor knowingly
20647 organizes, establishes, promotes, or administers a pyramid scheme.

20648 (3) A violation of Subsection (2) is a third degree felony.

20649 (4) It is not a defense to an action brought under this section that:

20650 (a) the sales device or plan limits the number of persons who may be introduced into the
20651 sales device or plan;

20652 (b) the sales device or plan includes additional conditions affecting eligibility for
20653 introduction into the sales device or plan or when compensation may be received
20654 from the sales device or plan; or

20655 (c) a person receives property or services in addition to the compensation or right to
20656 receive compensation in connection with a pyramid scheme.

20657 (5) The appropriate county attorney or district attorney has primary responsibility for
20658 investigating and prosecuting a criminal violation of this section.

20659 (6)(a) A violation under this section constitutes a violation of Section 13-11-4.

20660 (b) A criminal conviction under this section is prima facie evidence of a violation of
20661 Section 13-11-4.

20662 (c) In addition to prosecution under this section, a violation of this section shall be
20663 civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah
20664 Consumer Sales Practices Act.

20665 Section 473. Section **76-17-304**, which is renumbered from Section 76-6a-103 is renumbered
20666 and amended to read:

20667 **~~[76-6a-103]~~76-17-304 . Participating in a pyramid scheme.**

20668 (1) Terms defined in ~~[Section]~~ Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this
20669 section.

20670 (2) An actor commits ~~[the offense of]~~ participating in a pyramid scheme if the actor
20671 participates in a pyramid scheme only by receiving compensation for the introduction of
20672 another person into the pyramid scheme rather than from the sale of goods, services, or
20673 other property.

- 20674 (3) A violation of Subsection (2) is a class B misdemeanor.
- 20675 (4) It is not a defense to an action brought under this section that:
- 20676 (a) the sales device or plan limits the number of persons who may be introduced into the
- 20677 sales device or plan;
- 20678 (b) the sales device or plan includes additional conditions affecting eligibility for
- 20679 introduction into the sales device or plan or when compensation may be received
- 20680 from the sales device or plan; or
- 20681 (c) a person receives property or services in addition to the compensation or right to
- 20682 receive compensation in connection with a pyramid scheme.
- 20683 (5) The appropriate county attorney or district attorney has primary responsibility for
- 20684 investigating and prosecuting a criminal violation of this section.
- 20685 (6)(a) A violation under this section constitutes a violation of Section 13-11-4.
- 20686 (b) A criminal conviction under this section is prima facie evidence of a violation of
- 20687 Section 13-11-4.
- 20688 (c) In addition to prosecution under this section, a violation of this section shall be
- 20689 civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah
- 20690 Consumer Sales Practices Act.
- 20691 Section 474. Section **76-17-401**, which is renumbered from Section 76-10-1602 is renumbered
- 20692 and amended to read:

20693 **Part 4. Offenses Concerning Patterns of Unlawful Activity**

20694 **~~[76-10-1602]~~ 76-17-401 . Definitions.**

20695 As used in this part:

- 20696 (1)(a) "Enterprise" means ~~[any]~~ an individual, sole proprietorship, partnership,
- 20697 corporation, business trust, association, or other legal entity, and ~~[any]~~ a union or
- 20698 group of individuals associated in fact although not a legal entity~~[, and]~~ .
- 20699 (b) "Enterprise" includes illicit as well as licit entities.
- 20700 (2) "Pattern of unlawful activity" means engaging in conduct ~~[which]~~ that constitutes the
- 20701 commission of at least three episodes of unlawful activity, which episodes are not
- 20702 isolated, but have the same or similar purposes, results, participants, victims, or methods
- 20703 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
- 20704 together, the episodes shall demonstrate continuing unlawful conduct and be related

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20705 either to each other or to the enterprise. At least one of the episodes comprising a
20706 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
20707 constituting part of a pattern of unlawful activity as defined by this part shall have
20708 occurred within five years of the commission of the next preceding act alleged as part of
20709 the pattern.

- 20710 (3) "Person" includes [~~any~~] an individual or entity capable of holding a legal or beneficial
20711 interest in property, including state, county, and local governmental entities.
- 20712 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
20713 encourage, or intentionally aid another person to engage in conduct [~~which~~] that would
20714 constitute [~~any~~] an offense described by the following crimes or categories of crimes, or
20715 to attempt or conspire to engage in an act [~~which~~] that would constitute any of those
20716 offenses, regardless of whether the act is in fact charged or indicted by [~~any~~] an authority
20717 or is classified as a misdemeanor or a felony:
- 20718 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
20719 Recording Practices Act;
 - 20720 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
20721 Code, Sections 19-1-101 through 19-7-109;
 - 20722 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
20723 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
20724 Section 23A-5-311;
 - 20725 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
20726 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 20727 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
20728 Offenses and Procedure Act;
 - 20729 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
20730 Uniform Land Sales Practices Act;
 - 20731 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
20732 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
20733 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
20734 Chapter 37d, Clandestine Drug Lab Act;
 - 20735 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform

- 20736 Securities Act;
- 20737 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
- 20738 Procurement Code;
- 20739 (j) assault under Section_76-5-102;
- 20740 (k) aggravated assault under Section 76-5-103;
- 20741 (l) a threat of terrorism under Section 76-5-107.3;
- 20742 (m) a criminal homicide offense under Section 76-5-201;
- 20743 (n) kidnapping under Section_76-5-301;
- 20744 (o) aggravated kidnapping under Section_76-5-302;
- 20745 (p) human trafficking for labor under Section 76-5-308;
- 20746 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 20747 (r) human smuggling under Section 76-5-308.3;
- 20748 (s) human trafficking of a child under Section76-5-308.5;
- 20749 (t) benefiting from trafficking and human smuggling under Section_76-5-309;
- 20750 (u) aggravated human trafficking under Section_76-5-310;
- 20751 (v) sexual exploitation of a minor under Section 76-5b-201;
- 20752 (w) aggravated sexual exploitation of a minor under Section_76-5b-201.1;
- 20753 (x) arson under Section 76-6-102;
- 20754 (y) aggravated arson under Section76-6-103;
- 20755 (z) causing a catastrophe under Section 76-6-105;
- 20756 (aa) burglary under Section 76-6-202;
- 20757 (bb) aggravated burglary under Section_76-6-203;
- 20758 (cc) burglary of a vehicle under Section 76-6-204;
- 20759 (dd) manufacture or possession of an instrument for burglary or theft under Section
- 20760 76-6-205;
- 20761 (ee) robbery under Section 76-6-301;
- 20762 (ff) aggravated robbery under Section_76-6-302;
- 20763 (gg) theft under Section 76-6-404;
- 20764 (hh) theft by deception under Section 76-6-405;
- 20765 (ii) theft by extortion under Section 76-6-406;
- 20766 (jj) receiving stolen property under Section 76-6-408;

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- 20767 (kk) theft of services under Section 76-6-409;
- 20768 (ll) forgery under Section 76-6-501;
- 20769 (mm) unlawful use of financial transaction card under Section_76-6-506.2;
- 20770 (nn) unlawful acquisition, possession, or transfer of financial transaction card under
- 20771 Section_76-6-506.3;
- 20772 (oo) financial transaction card offenses under Section_76-6-506.6;
- 20773 (pp) deceptive business practices under Section 76-6-507;
- 20774 (qq) bribery or receiving bribe by person in the business of selection, appraisal, or
- 20775 criticism of goods under Section 76-6-508;
- 20776 (rr) bribery of a labor official under Section 76-6-509;
- 20777 (ss) defrauding creditors under Section 76-6-511;
- 20778 (tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 20779 (uu) unlawful dealing with property by fiduciary under Section 76-6-513;
- 20780 (vv) [~~bribery or threat to influence~~] unlawful influence of a contest under Section
- 20781 76-6-514;
- 20782 (ww) making a false credit report under Section 76-6-517;
- 20783 (xx) criminal simulation under Section 76-6-518;
- 20784 (yy) criminal usury under Section 76-6-520;
- 20785 (zz) insurance fraud under Section 76-6-521;
- 20786 (aaa) retail theft under Section 76-6-602;
- 20787 (bbb) computer crimes under Section 76-6-703;
- 20788 (ccc) identity fraud under Section 76-6-1102;
- 20789 (ddd) mortgage fraud under Section 76-6-1203;
- 20790 (eee) sale of a child under Section 76-7-203;
- 20791 (fff) bribery [~~to influence official or political actions~~] or offering a bribe under Section
- 20792 76-8-103;
- 20793 (ggg) threat to influence official or political action under Section 76-8-104;
- 20794 (hhh) receiving bribe or bribery by public servant under Section 76-8-105;
- 20795 (iii) receiving bribe for endorsement of person as a public servant under Section
- 20796 76-8-106;
- 20797 (jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;

- 20798 (kkk) official misconduct based on unauthorized act or failure of duty under Section
20799 76-8-201;
- 20800 (lll) official misconduct concerning inside information under Section 76-8-202;
- 20801 (mmm) obstruction of justice in a criminal investigation or proceeding under Section
20802 76-8-306;
- 20803 (nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section
20804 76-8-308;
- 20805 (ooo) harboring or concealing offender who has escaped from official custody under
20806 Section 76-8-309.2;
- 20807 (ppp) making a false or inconsistent material statement under Section 76-8-502;
- 20808 (qqq) making a false or inconsistent statement under Section 76-8-503;
- 20809 (rrr) making a written false statement under Section 76-8-504;
- 20810 (sss) tampering with a witness under Section 76-8-508;
- 20811 (ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 20812 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 20813 (vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 20814 (www) tampering with evidence under Section 76-8-510.5;
- 20815 (xxx) falsification or alteration of a government record under Section 76-8-511, if the
20816 record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
20817 Lobbyist Disclosure and Regulation Act;
- 20818 (yyy) public assistance fraud by an applicant for public assistance under Section
20819 76-8-1203.1;
- 20820 (zzz) public assistance fraud by a recipient of public assistance under Section
20821 76-8-1203.3;
- 20822 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;
- 20823 (bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
- 20824 (cccc) false statement to obtain or increase unemployment compensation under Section
20825 76-8-1301;
- 20826 (dddd) false statement to prevent or reduce unemployment compensation or liability
20827 under Section 76-8-1302;
- 20828 (eeee) unlawful failure to comply with Employment Security Act requirements under

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20829 Section 76-8-1303;

20830 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

20831 (gggg) intentionally or knowingly causing one animal to fight with another under

20832 Subsection ~~[76-9-301(2)(d) or (e), or Section 76-9-301.1]~~ 76-13-202(2)(d) or

20833 (3), or Section 76-13-205 or 76-13-206 concerning dog fighting;

20834 (hhhh) ~~[possession, use, or removal of explosives, chemical, or incendiary devices or~~

20835 ~~parts]~~ unlawful conduct involving an explosive, chemical, or incendiary device under

20836 Section ~~[76-10-306]~~ 76-15-210;

20837 (iiii) unlawful conduct involving an explosive, chemical, or incendiary part under Section

20838 76-15-211;

20839 ~~[(iiii)]~~ (jjjj) delivery to common carrier, mailing, or placement on premises of an

20840 incendiary device under Section ~~[76-10-307]~~ 76-15-209;

20841 ~~[(jjjj)]~~ (kkkk) possession of a deadly weapon with intent to assault under Section [~~76-10-507]~~

20842 76-11-206;

20843 ~~[(kkkk)]~~ (llll) unlawful marking of pistol or revolver under Section ~~[76-10-521]~~ 53-5a-105;

20844 ~~[(llll)]~~ (mmmm) alteration of number or mark on pistol or revolver under Section [~~76-10-522]~~

20845 53-5a-106;

20846 ~~[(mmmm)]~~ (nnnn) forging or counterfeiting trademarks, trade name, or trade device

20847 under Section ~~[76-10-1002]~~ 76-16-302;

20848 ~~[(nnnn)]~~ (oooo) selling goods under counterfeited trademark, trade name, or trade

20849 devices under Section ~~[76-10-1003]~~ 76-16-303;

20850 ~~[(oooo)]~~ (pppp) sales in containers bearing registered trademark of substituted articles

20851 under Section ~~[76-10-1004]~~ 76-16-304;

20852 ~~[(pppp)]~~ (qqqq) selling or dealing with article bearing registered trademark or service

20853 mark with intent to defraud under Section ~~[76-10-1006]~~ 76-16-306;

20854 ~~[(qqqq)]~~ (rrrr) participating in gambling under Section ~~[76-10-1102]~~ 76-9-1402;

20855 (ssss) permitting gambling under Section, 76-9-1403;

20856 (tttt) online gambling prohibition under Section 76-9-1404;

20857 (uuuu) gambling promotion under Section 76-9-1405;

20858 ~~[(rrrr)]~~ (vvvv) gambling fraud under Section ~~[76-10-1103]~~ 76-9-1406;

20859 ~~[(ssss)]~~ gambling promotion under Section ~~76-10-1104;~~

20860 [(tttt)] (www) possessing a gambling device or record under Section [76-10-1105]
20861 76-9-1407;

20862 [(uuuu)] (xxxx) obtaining a benefit from a confidence game under Section [76-10-1109]
20863 76-9-1410;

20864 [(vvvv)] (yyyy) distributing pornographic material under Section [76-10-1204] 76-5c-202;
20865 [(zzzz)] aiding or abetting a minor in distributing pornographic material under Section
20866 76-5c-203;

20867 [(wwww)] (aaaa) inducing acceptance of pornographic material under Section [
20868 76-10-1205] 76-5c-204;

20869 [(xxxx)] (bbbb) [~~dealing in harmful material to a minor~~] distributing material harmful to
20870 minors under Section [76-10-1206] 76-5c-205;

20871 [(cccc)] aiding or abetting a minor in distributing material harmful to minors under
20872 Section 76-5c-206;

20873 [(yyyy)] (dddd) distribution of [~~pornographic films~~] a pornographic file for exhibition
20874 under Section [76-10-1222] 76-5c-305;

20875 [(zzzz)] (eeee) indecent public [~~displays~~] display in the presence of a minor under
20876 Section [76-10-1228] 76-5c-207;

20877 [(aaaa)] (ffff) prostitution under Section [76-10-1302] 76-5c-202;

20878 [(bbbb)] (gggg) aiding prostitution under Section [76-10-1304] 76-5c-206;

20879 [(eeee)] (hhhh) exploiting prostitution under Section [76-10-1305] 76-5c-207;

20880 [(dddd)] (iiii) aggravated exploitation of prostitution under Section [76-10-1306]
20881 76-5d-208;

20882 [(eeee)] (jjjj) communications fraud under Section [76-10-1801] 76-6-525;

20883 [(ffff)] (kkkk) an act prohibited by the criminal provisions of [~~Part 19, Money~~
20884 Laundering and Currency Transaction Reporting Act] Chapter 9, Part 16, Money
20885 Laundering and Currency Transaction Reporting;

20886 [(gggg)] (llll) vehicle compartment for contraband under Section [76-10-2801]
20887 76-9-1902 or 76-9-1903;

20888 [(hhhh)] (mmmm) an act prohibited by the criminal provisions of the laws governing
20889 taxation in this state; or

20890 [(iiii)] (nnnn) an act illegal under the laws of the United States and enumerated in 18

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20891 U.S.C. Sec. 1961(1)(B), (C), and (D).

20892 Section 475. Section **76-17-402**, which is renumbered from Section 76-10-1604 is renumbered
20893 and amended to read:

20894 **~~[76-10-1604]~~ 76-17-402 . Enforcement authority of peace officers.**

20895 Notwithstanding any law to the contrary, peace officers in ~~[the state of Utah shall]~~
20896 this state have the authority to enforce the criminal provisions of this ~~[aet]~~ part by
20897 initiating investigations, assisting grand juries, obtaining indictments, filing
20898 informations, and assisting in the prosecution of criminal cases through the attorney
20899 general or county attorneys' offices.

20900 Section 476. Section **76-17-403**, which is renumbered from Section 76-10-1605 is renumbered
20901 and amended to read:

20902 **~~[76-10-1605]~~ 76-17-403 . Remedies of person injured by a pattern of unlawful activity --**
20903 **Double damages -- Costs, including attorney fees -- Arbitration -- Agency --**
20904 **Burden of proof -- Actions by attorney general or county attorney -- Dismissal --**
20905 **Statute of limitations -- Authorized orders of a court.**

20906 (1)(a) A person injured in ~~[his]~~ the person's person, business, or property by a person
20907 engaged in conduct forbidden by ~~[any provision of Section 76-10-1603]~~ Section
20908 76-17-407 may bring an action in a court with jurisdiction under Title 78A, Judiciary
20909 and Judicial Administration, to recover twice the damages that the person sustains,
20910 regardless of whether:

20911 ~~[(a)]~~ (i) the injury is separate or distinct from the injury suffered as a result of the acts
20912 or conduct constituting the pattern of unlawful conduct alleged as part of the cause
20913 of action; or

20914 ~~[(b)]~~ (ii) the conduct has been adjudged criminal by ~~[any]~~ a court of the state or of the
20915 United States.

20916 (2) A party who prevails on a cause of action brought under this section recovers the cost of
20917 the suit, including reasonable attorney fees.

20918 (3) All actions arising under this section ~~[which]~~ that are grounded in fraud are subject to
20919 arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

20920 (4)(a) In all actions under this section, a principal is liable for actual damages for harm
20921 caused by an agent acting within the scope of either ~~[his]~~ the agent's employment or

- 20922 apparent authority.
- 20923 **(b)** A principal is liable for double damages only if the pattern of unlawful activity
- 20924 alleged and proven as part of the cause of action was authorized, solicited, requested,
- 20925 commanded, undertaken, performed, or recklessly tolerated by the board of directors
- 20926 or a high managerial agent acting within the scope of [~~his~~] the agent's employment.
- 20927 (5) In all actions arising under this section, the burden of proof is clear and convincing
- 20928 evidence.
- 20929 (6) The attorney general, county attorney, or, if within a prosecution district, the district
- 20930 attorney may maintain [~~actions~~] an action under this section on behalf of the state, the
- 20931 county, or any person injured by a person engaged in conduct forbidden by [~~any~~
- 20932 ~~provision of Section 76-10-1603~~] Section 76-17-407, to prevent, restrain, or remedy
- 20933 injury as defined in this section and may recover the damages and costs allowed by this
- 20934 section.
- 20935 (7) In all actions under this section, the elements of each claim or cause of action shall be
- 20936 stated with particularity against each defendant.
- 20937 (8) If an action, claim, or counterclaim brought or asserted by a private party under this
- 20938 section is dismissed [~~prior to~~] before trial or disposed of on summary judgment, or if it is
- 20939 determined at trial that there is no liability, the prevailing party shall recover from the
- 20940 party who brought the action or asserted the claim or counterclaim the amount of [~~its~~] the
- 20941 prevailing party's reasonable expenses incurred because of the defense against the
- 20942 action, claim, or counterclaim, including a reasonable attorney's fee.
- 20943 (9)(a) An action or proceeding brought under this section shall be commenced within
- 20944 three years after the conduct prohibited by Section [~~76-10-1603~~] 76-17-407 terminates
- 20945 or the cause of action accrues, whichever is later.
- 20946 **(b)** [~~This provision-~~] Subsection (9)(a) supersedes any limitation to the contrary.
- 20947 (10)(a) In any action brought under this section, the court may prevent, restrain, or
- 20948 remedy injury as defined by this section by issuing appropriate orders after making
- 20949 provisions for the rights of innocent persons.
- 20950 **(b)** Before liability is determined in any action brought under this section, the court may:
- 20951 (i) issue restraining orders and injunctions;
- 20952 (ii) require satisfactory performance bonds or any other bond [~~it~~] the court considers

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20953 appropriate and necessary in connection with any property or [any] requirement
20954 imposed upon a party by the court; and
20955 (iii) enter any other order the court considers necessary and proper.

20956 (c) After a determination of liability, the court may, in addition to granting the relief
20957 allowed in Subsection (1), do any one or all of the following:

20958 (i) order [any] a person to divest [himself] the person's self of any interest in or any
20959 control, direct or indirect, of [any] an enterprise;

20960 (ii) impose reasonable restrictions on the future activities or investments of [any] a
20961 person, including prohibiting [any] a person from engaging in the same type of
20962 endeavor as the enterprise engaged in, to the extent the Utah Constitution and the
20963 Constitution of the United States permit; or

20964 (iii) order the dissolution or reorganization of [any] an enterprise.

20965 (d)(i) However, if an action is brought to obtain any relief provided by this section,
20966 and if the conduct prohibited by [~~Section 76-10-1603~~] Section 76-17-407 has for
20967 its pattern of unlawful activity acts or conduct illegal under Section [~~76-10-1204,~~
20968 ~~76-10-1205, 76-10-1206, or 76-10-1222,~~] 76-5c-202, 76-5c-203,
20969 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, the court may not enter [any] an
20970 order that would amount to a prior restraint on the exercise of an affected party's
20971 rights under the First Amendment to the Constitution of the United States, or
20972 Article I, Sec. 15 of the Utah Constitution.

20973 (ii) The court shall, upon the request of [any] an affected party, and upon the notice to
20974 all parties, [~~prior to~~] before the issuance of [any] an order provided for in this
20975 subsection, and at any later time, hold hearings as necessary to determine whether
20976 any materials at issue are obscene or pornographic and to determine if there is
20977 probable cause to believe that any act or conduct alleged violates Section [~~76-10-1204,~~
20978 ~~76-10-1205, 76-10-1206, or 76-10-1222~~] 76-5c-202,
20979 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305.

20980 (iii) In making [~~its~~] the court's findings, the court shall be guided by the same
20981 considerations required of a court making similar findings in criminal cases
20982 brought under Section [~~76-10-1204, 76-10-1205, 76-10-1206, or~~
20983 ~~76-10-1222~~] 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305,

20984 including, but not limited to, the definitions in Sections ~~[76-10-1201,~~
20985 ~~76-10-1203, and 76-10-1216]~~ 76-5c-101 and 76-5c-301, and the exemptions in
20986 Section ~~[76-10-1226]~~ 76-5c-302.

20987 Section 477. Section **76-17-404**, which is renumbered from Section 76-10-1607 is renumbered
20988 and amended to read:

20989 **~~[76-10-1607]~~ 76-17-404 . Evidentiary value of a criminal judgment in a civil proceeding.**

20990 A final judgment or decree rendered in favor of the state or a county in ~~[any]~~ a
20991 criminal proceeding brought by this state or a county shall preclude the defendant
20992 from denying the essential allegations of the criminal offense in ~~[any]~~ a subsequent
20993 civil proceeding.

20994 Section 478. Section **76-17-405**, which is renumbered from Section 76-10-1609 is renumbered
20995 and amended to read:

20996 **~~[76-10-1609]~~ 76-17-405 . Prospective application.**

20997 (1) ~~[The amendments to the Utah Pattern of Unlawful Activity Act]~~ Except as
20998 provided in Subsection (2), amendments to this part are prospective in nature and apply
20999 only to civil causes of action accruing after ~~[the effective date of this act]~~ April 27, 1987.

21000 (2) ~~[However, crimes committed prior to the effective date of this act]~~ A crime committed
21001 before April 27, 1987, may comprise part of a pattern of unlawful activity if at least one
21002 of the criminal episodes comprising that pattern occurs after ~~[the effective date of this act]~~
21003 April 27, 1987, and the pattern otherwise meets the definition of pattern of unlawful
21004 activity as defined in Section ~~[76-10-1602]~~ 76-17-401.

21005 Section 479. Section **76-17-406**, which is renumbered from Section 76-10-1608 is renumbered
21006 and amended to read:

21007 **~~[76-10-1608]~~ 76-17-406 . Severability clause.**

21008 If any part or application of ~~[the Utah Pattern of Unlawful Activity Act]~~ this part is
21009 held invalid, the remainder of this part, or ~~[its]~~ the part's application to other situations or
21010 persons, is not affected.

21011 Section 480. Section **76-17-407**, which is renumbered from Section 76-10-1603 is renumbered
21012 and amended to read:

21013 **~~[76-10-1603]~~ 76-17-407 . Prohibited conduct concerning a pattern of unlawful activity.**

21014 (1)(a) As used in this section, "net proceeds" of a violation of this section means

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- 21015 property acquired as a result of the violation minus the direct costs of acquiring the
21016 property.
- 21017 (b) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-401 apply to this
21018 section.
- 21019 (2) An actor commits prohibited conduct concerning a pattern of unlawful activity if the
21020 actor:
- 21021 (a) [It is unlawful for any person who-]
- 21022 (i) has received [any] proceeds derived, whether directly or indirectly, from a pattern
21023 of unlawful activity in which the [person] actor has participated as a principal[-to
21024 use or invest,-] ; and
- 21025 (ii) uses or invests, directly or indirectly, any part of [that] the income described in
21026 Subsection (2)(a)(i), or the proceeds of the income, or the proceeds derived from
21027 the investment or use of those proceeds, in the acquisition of [any] an interest in, or
21028 the establishment or operation of, [any] an enterprise[-] ;
- 21029 ~~[(2)]~~ (b) [It is unlawful for any person through a pattern of unlawful activity to acquire or
21030 maintain] acquires or maintains, directly or indirectly, through a pattern of unlawful
21031 activity, [any] an interest in or control of [any] an enterprise[-] ;
- 21032 ~~[(3)]~~ (c)(i) [It is unlawful for any person] is employed by or associated with [any] an
21033 enterprise; and
- 21034 (ii) [-to conduct or participate] conducts or participates, whether directly or indirectly,
21035 in the conduct of [that] the enterprise's affairs through a pattern of unlawful activity[-] ;
21036 or
- 21037 ~~[(4)]~~ (d) [It is unlawful for any person to conspire to violate any provision of Subsection
21038 (1), (2), or (3)] conspires to violate Subsection (2)(a), (b), or (c).
- 21039 (3) A violation of Subsection (2) is a second degree felony.
- 21040 (4) In addition to penalties prescribed by law, the court may order an actor to pay to the
21041 state, if the attorney general brought the action, or to the county, if the county attorney
21042 or district attorney brought the action, the costs of investigating and prosecuting the
21043 offense and the costs of securing the forfeitures provided for in this section.
- 21044 (5) In lieu of a fine otherwise authorized by law for a violation of this section, an actor who
21045 derives net proceeds from a conduct prohibited by this section may be fined not more

- 21046 than twice the amount of the net proceeds.
- 21047 (6) Upon a conviction for a violation of this section, and in addition to a penalty prescribed
- 21048 by law, the court may do any or all of the following:
- 21049 (a) order restitution to any victim or rightful owner of property obtained, directly or
- 21050 indirectly, from:
- 21051 (i) the conduct constituting the pattern of unlawful activity; or
- 21052 (ii) any act or conduct constituting the pattern of unlawful activity that is proven as
- 21053 part of the violation of this section;
- 21054 (b) order the actor to divest the actor of any interest in or any control, direct or indirect,
- 21055 of an enterprise;
- 21056 (c) impose reasonable restrictions on the future activities or investments of any person,
- 21057 including prohibiting the person from engaging in the same type of endeavor as the
- 21058 enterprise engaged in, to the extent the Utah Constitution and the Constitution of the
- 21059 United States permit; or
- 21060 (d) order the dissolution or reorganization of an enterprise.
- 21061 (7) If a violation of this section is based on a pattern of unlawful activity consisting of acts
- 21062 or conduct in violation of Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205,
- 21063 76-5c-206, or 76-5c-305, the court may not enter an order that would amount to a prior
- 21064 restraint on the exercise of an affected party's rights under the First Amendment to the
- 21065 Constitution of the United States or Utah Constitution Article I, Section 15.
- 21066 Section 481. Section **77-2-9** is amended to read:
- 21067 **77-2-9 . Offenses ineligible for diversion.**
- 21068 (1) A magistrate may not grant a diversion for:
- 21069 (a) a capital felony;
- 21070 (b) a felony in the first degree;
- 21071 (c) any case involving a sexual offense against a victim who is under 14 years old;
- 21072 (d) any motor vehicle related offense involving alcohol or drugs;
- 21073 (e) any case involving using a motor vehicle in the commission of a felony;
- 21074 (f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended
- 21075 license;
- 21076 (g) any case involving operating a commercial motor vehicle in a negligent manner

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- 21077 causing the death of another including the offenses of:
- 21078 (i) manslaughter under Section 76-5-205; or
- 21079 (ii) negligent homicide under Section 76-5-206; or
- 21080 (h) a crime of domestic violence as defined in Section 77-36-1.
- 21081 (2) When an individual is alleged to have committed any violation of Title 76, Chapter 5,
- 21082 Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or
- 21083 76-5-420, while under 16 years old, the court may enter a diversion in the matter if the
- 21084 court enters on the record the court's findings that:
- 21085 (a) the offenses could have been adjudicated in juvenile court but for the delayed
- 21086 reporting or delayed filing of the information in the district court, unless the offenses
- 21087 are before the court in accordance with Section 80-6-502 or 80-6-504;
- 21088 (b) the individual did not use coercion or force;
- 21089 (c) there is no more than three years' difference between the ages of the participants; and
- 21090 (d) it would be in the best interest of the person to grant diversion.

21091 Section 482. Section **77-7a-104** is amended to read:

21092 **77-7a-104 . Activation and use of body-worn cameras.**

- 21093 (1) An officer using a body-worn camera shall verify that the equipment is properly
- 21094 functioning as is reasonably within the officer's ability.
- 21095 (2) An officer shall report any malfunctioning equipment to the officer's supervisor if:
- 21096 (a) the body-worn camera issued to the officer is not functioning properly upon initial
- 21097 inspection; or
- 21098 (b) an officer determines that the officer's body-worn camera is not functioning properly
- 21099 at any time while the officer is on duty.
- 21100 (3) An officer shall wear the body-worn camera so that it is clearly visible to the person
- 21101 being recorded.
- 21102 (4) An officer shall activate the body-worn camera prior to any law enforcement encounter,
- 21103 or as soon as reasonably possible.
- 21104 (5) An officer shall record in an uninterrupted manner until after the conclusion of a law
- 21105 enforcement encounter, except as an interruption of a recording is allowed under this
- 21106 section.
- 21107 (6) When going on duty and off duty, an officer who is issued a body-worn camera shall

- 21108 record the officer's name, identification number, and the current time and date, unless
21109 the information is already available due to the functionality of the body-worn camera.
- 21110 (7) If a body-worn camera was present during a law enforcement encounter, the officer
21111 shall document the presence of the body-worn camera in any report or other official
21112 record of a contact.
- 21113 (8) When a body-worn camera has been activated, the officer may not deactivate the
21114 body-worn camera until the officer's direct participation in the law enforcement
21115 encounter is complete, except as provided in Subsection (9).
- 21116 (9) An officer may deactivate a body-worn camera:
- 21117 (a) to consult with a supervisor or another officer;
- 21118 (b) during a significant period of inactivity;
- 21119 (c) during a conversation with a sensitive victim of crime, a witness of a crime, or an
21120 individual who wishes to report or discuss criminal activity if:
- 21121 (i) the individual who is the subject of the recording requests that the officer
21122 deactivate the officer's body-worn camera; and
- 21123 (ii) the officer believes that the value of the information outweighs the value of the
21124 potential recording and records the request by the individual to deactivate the
21125 body-worn camera; or
- 21126 (d) during a conversation with a victim of a sexual offense, as described in Title 76,
21127 Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418,
21128 76-5-419, or 76-5-420, or domestic violence, as defined in Section 77-36-1, if:
- 21129 (i) the officer is conducting an evidence-based lethality assessment;
- 21130 (ii) the victim or the officer believes that deactivating the body-worn camera
21131 recording:
- 21132 (A) will encourage complete and accurate information sharing by the victim; or
21133 (B) is necessary to protect the safety or identity of the victim; and
- 21134 (iii) the officer's body-worn camera is reactivated as soon as reasonably possible after
21135 the evidence-based lethality assessment is complete.
- 21136 (10) If an officer deactivates or fails to activate a body-worn camera in violation of this
21137 section, the officer shall document the reason for deactivating or for failing to activate a
21138 body-worn camera in a written report.

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- 21139 (11)(a) For purposes of this Subsection (11):
- 21140 (i) "Health care facility" means the same as that term is defined in Section 78B-3-403.
- 21141 (ii) "Health care provider" means the same as that term is defined in Section
- 21142 78B-3-403.
- 21143 (iii) "Hospital" means the same as that term is defined in Section 78B-3-403.
- 21144 (iv) "Human service program" means the same as that term is defined in Section
- 21145 26B-2-101.
- 21146 (b) An officer may not activate a body-worn camera in a hospital, health care facility,
- 21147 human service program, or the clinic of a health care provider, except during a law
- 21148 enforcement encounter, and with notice under Section 77-7a-105.
- 21149 (12) A violation of this section may not serve as the sole basis to dismiss a criminal case or
- 21150 charge.
- 21151 (13) Nothing in this section precludes a law enforcement agency from establishing internal
- 21152 agency policies for an officer's failure to comply with the requirements of this section.
- 21153 Section 483. Section **77-11a-402** is amended to read:
- 21154 **77-11a-402 . Disposition of seized property and contraband -- Return of seized**
- 21155 **property.**
- 21156 (1)(a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that
- 21157 seized property no longer needs to be retained as evidence under Chapter 11c,
- 21158 Retention of Evidence, the prosecuting attorney may:
- 21159 (i) petition the court to apply the property that is money towards restitution, fines,
- 21160 fees, or monetary judgments owed by the owner of the property;
- 21161 (ii) petition the court for an order transferring ownership of weapons to the agency
- 21162 with custody for the agency's use and disposal in accordance with Section
- 21163 77-11a-403 if the owner:
- 21164 (A) is the individual who committed the offense for which the weapon was seized;
- 21165 or
- 21166 (B) may not lawfully possess the weapon; or
- 21167 (iii) notify the agency with custody of the property or contraband that:
- 21168 (A) the property may be returned to the owner in accordance with Section
- 21169 77-11a-301 if the owner may lawfully possess the property; or

- 21170 (B) the contraband may be disposed of or destroyed.
- 21171 (b) If a prosecuting attorney determines that a firearm seized from an individual as a
21172 result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~] 76-11-215(2)(a)
21173 no longer needs to be retained for court proceedings, the prosecuting attorney shall
21174 notify the agency with custody of the firearm that the property shall be returned to the
21175 individual if the individual may lawfully possess the firearm.
- 21176 (2) Before returning a firearm to an individual, the agency returning the firearm shall
21177 confirm, through the Bureau of Criminal Identification, that the individual is eligible to
21178 lawfully possess and receive firearms.
- 21179 (3)(a) Except as provided in Subsection (3)(b), if the agency is unable to locate the
21180 owner of the property or the owner is not entitled to lawfully possess the property,
21181 the agency may:
- 21182 (i) apply the property to a public interest use;
- 21183 (ii) sell the property at public auction and apply the proceeds of the sale to a public
21184 interest use; or
- 21185 (iii) destroy the property if the property is unfit for a public interest use or for sale.
- 21186 (b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of
21187 the firearm in accordance with Section 77-11a-403.
- 21188 (4) Before applying the property or the proceeds from the sale of the property to a public
21189 interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:
- 21190 (a) permission to apply the property or the proceeds to public interest use; and
- 21191 (b) the designation and approval of the public interest use of the property or the proceeds.
- 21192 (5) If a peace officer seizes property that at the time of seizure is held by a pawn or
21193 secondhand business in the course of the pawn or secondhand business's business, the
21194 provisions of Section 13-32a-116 shall apply to the disposition of the property.
- 21195 Section 484. Section **77-11b-102** is amended to read:
- 21196 **77-11b-102 . Property subject to forfeiture.**
- 21197 (1)(a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to
21198 forfeit:
- 21199 (i) seized property that was used to facilitate the commission of an offense that is a
21200 violation of federal or state law; or

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- 21201 (ii) seized proceeds.
- 21202 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
- 21203 innocent owner or an interest holder.
- 21204 (2) If seized property is used to facilitate an offense that is a violation of Section [
- 21205 ~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222]~~ 76-5c-202, 76-5c-203, 76-5c-204,
- 21206 76-5c-205, 76-5c-206, or 76-5c-305, an agency may not forfeit the property if the
- 21207 forfeiture would constitute a prior restraint on the exercise of an affected party's rights
- 21208 under the First Amendment to the Constitution of the United States or Utah Constitution,
- 21209 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the
- 21210 party's rights under the First Amendment to the Constitution of the United States or Utah
- 21211 Constitution, Article I, Section 15.
- 21212 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,
- 21213 41-6a-517, a local ordinance that complies with the requirements of Subsection
- 21214 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not
- 21215 seek forfeiture of the motor vehicle, unless:
- 21216 (a) the operator of the vehicle has previously been convicted of an offense committed
- 21217 after May 12, 2009, that is:
- 21218 (i) a felony driving under the influence violation under Section 41-6a-502 or
- 21219 Subsection 76-5-102.1(2)(a);
- 21220 (ii) a felony violation under Subsection 76-5-102.1(2)(b);
- 21221 (iii) a violation under Section 76-5-207; or
- 21222 (iv) operating a motor vehicle with any amount of a controlled substance in an
- 21223 individual's body and causing serious bodily injury or death, as codified before
- 21224 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
- 21225 58-37-8(2)(g); or
- 21226 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
- 21227 disqualified license and:
- 21228 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
- 21229 was imposed because of a violation under:
- 21230 (A) Section 41-6a-502;
- 21231 (B) Section 41-6a-517;

- 21232 (C) a local ordinance that complies with the requirements of Subsection
21233 41-6a-510(1);
- 21234 (D) Section 41-6a-520.1;
- 21235 (E) operating a motor vehicle with any amount of a controlled substance in an
21236 individual's body and causing serious bodily injury or death, as codified before
21237 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
21238 58-37-8(2)(g);
- 21239 (F) Section 76-5-102.1;
- 21240 (G) Section 76-5-207; or
- 21241 (H) a criminal prohibition as a result of a plea bargain after having been originally
21242 charged with violating one or more of the sections or ordinances described in
21243 Subsections (3)(b)(i)(A) through (G); or
- 21244 (ii) the denial, suspension, revocation, or disqualification described in Subsection
21245 (3)(b)(i):
- 21246 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
21247 revocation, or disqualification; and
- 21248 (B) the original denial, suspension, revocation, or disqualification was imposed
21249 because of a violation described in Subsection (3)(b)(i).
- 21250 (4) If a peace officer seizes property incident to an arrest solely for possession of a
21251 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection
21252 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in
21253 accordance with the arrest.
- 21254 (5) If a peace officer seizes an individual's firearm as the result of an offense under Section [
21255 ~~76-10-529~~ 76-11-215, an agency may not seek to forfeit the individual's firearm if the
21256 individual may lawfully possess the firearm.
- 21257 Section 485. Section **77-11d-101** is amended to read:
- 21258 **77-11d-101 . Definitions.**
- 21259 As used in this chapter:
- 21260 (1) "Interest holder" means the same as that term is defined in Section 77-11a-101.
- 21261 (2)(a) "Lost or mislaid property":
- 21262 (i) means any property that comes into the possession of a peace officer or law

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- 21263 enforcement agency:
- 21264 (A) that is not claimed by anyone who is identified as the owner of the property; or
- 21265 (B) for which no owner or interest holder can be found after a reasonable and
- 21266 diligent search;
- 21267 (ii) includes any property received by a peace officer or law enforcement agency
- 21268 from a person claiming to have found the property; and
- 21269 (iii) does not include property seized by a peace officer in accordance with Chapter
- 21270 11a, Seizure of Property and Contraband.
- 21271 (b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by
- 21272 a law enforcement agency at an airport under Subsection [~~76-10-529(6)~~] 76-11-215(7).
- 21273 (3) "Owner" means the same as that term is defined in Section 77-11a-101.
- 21274 (4) "Public interest use" means:
- 21275 (a) use by a governmental agency as determined by the agency's legislative body; or
- 21276 (b) donation to a nonprofit charity registered with the state.
- 21277 Section 486. Section **77-11d-105** is amended to read:
- 21278 **77-11d-105 . Disposition of unclaimed property.**
- 21279 (1)(a) Except as provided in Subsection (6), if the owner of any lost or mislaid property
- 21280 cannot be determined or notified, or if the owner of the property is determined and
- 21281 notified, and fails to appear and claim the property after three months of the
- 21282 property's receipt by the local law enforcement agency, the agency shall:
- 21283 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public
- 21284 Legal Notice Website established in Subsection 45-1-101(2)(b);
- 21285 (ii) post a similar notice on the public website of the political subdivision within
- 21286 which the law enforcement agency is located; and
- 21287 (iii) post a similar notice in a public place designated for notice within the law
- 21288 enforcement agency.
- 21289 (b) The notice shall:
- 21290 (i) give a general description of the item; and
- 21291 (ii) the date of intended disposition.
- 21292 (c) The agency may not dispose of the lost or mislaid property until at least eight days
- 21293 after the date of publication and posting.

- 21294 (2)(a) If no claim is made for the lost or mislaid property within nine days of
21295 publication and posting, the agency shall notify the person who turned the property
21296 over to the local law enforcement agency, if it was turned over by a person under
21297 Section 77-11d-103.
- 21298 (b) Except as provided in Subsection (4), if that person has complied with the provisions
21299 of this chapter, the person may take the lost or mislaid property if the person:
21300 (i) pays the costs incurred for advertising and storage; and
21301 (ii) signs a receipt for the item.
- 21302 (3) If the person who found the lost or mislaid property fails to take the property under the
21303 provisions of this chapter, the agency shall:
21304 (a) apply the property to a public interest use as provided in Subsection (4);
21305 (b) sell the property at public auction and apply the proceeds of the sale to a public
21306 interest use; or
21307 (c) destroy the property if it is unfit for a public interest use or sale.
- 21308 (4)(a) Before applying the lost or mislaid property to a public interest use, the agency
21309 having possession of the property shall obtain from the agency's legislative body:
21310 (i) permission to apply the property to a public interest use; and
21311 (ii) the designation and approval of the public interest use of the property.
- 21312 (b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102
21313 (4), the agency may apply the lost or mislaid property to a public interest use as
21314 provided in Subsection (4)(a) after obtaining the permission, designation, and
21315 approval of the legislative body of the municipality in which the agency is located.
- 21316 (5) Any person employed by a law enforcement agency who finds property may not claim
21317 or receive property under this section.
- 21318 (6)(a) If the lost or mislaid property is a firearm or other dangerous weapon received by
21319 a law enforcement agency under Subsection [~~76-10-529(6)~~] 76-11-215(7), the law
21320 enforcement agency may dispose of the firearm or other dangerous weapon three
21321 months after the property's receipt by the law enforcement agency if the owner of the
21322 firearm or other dangerous weapon, or the owner's agent:
21323 (i) fails to retrieve the firearm or other dangerous weapon; or
21324 (ii) is legally prohibited from possessing the firearm or other dangerous weapon.

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21325 (b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by
21326 following the procedures described in Section 77-11a-403, disposition of firearms no
21327 longer needed as evidence.

21328 Section 487. Section **77-20-203** is amended to read:

21329 **77-20-203 . County sheriff authority to release an individual from jail on own**
21330 **recognizance.**

21331 (1) As used in this section:

21332 (a)(i) "Qualifying domestic violence offense" means the same as that term is defined
21333 in Subsection 77-36-1.1(4).

21334 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
21335 described in Section 76-6-106.

21336 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

21337 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

21338 (2) Except as provided in Subsection (3), a county jail official may release an individual
21339 from a jail facility on the individual's own recognizance if:

21340 (a) the individual was arrested without a warrant;

21341 (b) the individual was not arrested for:

21342 (i) a violent felony;

21343 (ii) a qualifying offense;

21344 (iii) the offense of driving under the influence or driving with a measurable
21345 controlled substance in the body if the offense results in death or serious bodily
21346 injury to an individual; or

21347 (iv) an offense described in Subsection 76-9-101(4)(b);

21348 (c) law enforcement has not submitted a probable cause statement to a court or
21349 magistrate;

21350 (d) the individual agrees in writing to appear for any future criminal proceedings related
21351 to the arrest; and

21352 (e) the individual qualifies for release under the written policy described in Subsection
21353 (4) for the county.

21354 (3) A county jail official may not release an individual from a jail facility if the individual is
21355 subject to a 72-hour hold placed on the individual by the Department of Corrections as

- 21356 described in Section 64-13-29.
- 21357 (4)(a) A county sheriff shall create and approve a written policy for the county that
- 21358 governs the release of an individual on the individual's own recognizance.
- 21359 (b) The written policy shall describe the criteria an individual shall meet to be released
- 21360 on the individual's own recognizance.
- 21361 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 21362 (i) criminal history;
- 21363 (ii) prior instances of failing to appear for a mandatory court appearance;
- 21364 (iii) current employment;
- 21365 (iv) residency;
- 21366 (v) ties to the community;
- 21367 (vi) an offense for which the individual was arrested;
- 21368 (vii) any potential criminal charges that have not yet been filed;
- 21369 (viii) the individual's health condition;
- 21370 (ix) any potential risks to a victim, a witness, or the public; and
- 21371 (x) any other similar factor a sheriff determines is relevant.
- 21372 (5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an
- 21373 individual for up to 24 hours from booking if:
- 21374 (i) the individual is on supervised probation or parole and that information is
- 21375 reasonably available; and
- 21376 (ii) the individual was arrested for:
- 21377 (A) a violent felony; or
- 21378 (B) a qualifying domestic violence offense.
- 21379 (b) The jail facility shall:
- 21380 (i) notify the entity supervising the individual's probation or parole that the individual
- 21381 is being detained; and
- 21382 (ii) release the individual:
- 21383 (A) to the Department of Corrections if the Department of Corrections supervises
- 21384 the individual and requests the individual's release; or
- 21385 (B) if a court or magistrate orders release.
- 21386 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in

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21387 accordance with this chapter for a new criminal offense.

21388 (6) This section does not prohibit a court and a county from entering into an agreement
21389 regarding release.

21390 Section 488. Section **77-20-204** is amended to read:

21391 **77-20-204 . County jail authority to release an individual from jail on monetary**
21392 **bail.**

21393 (1) As used in this section, "eligible felony offense" means a third degree felony violation
21394 under:

21395 (a) Section 23A-4-501 or 23A-4-502;

21396 (b) Section 23A-5-311;

21397 (c) Section 23A-5-313;

21398 (d) Title 76, Chapter 6, Part 4, Theft;

21399 (e) Title 76, Chapter 6, Part 5, Fraud;

21400 (f) Title 76, Chapter 6, Part 6, Retail Theft;

21401 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

21402 (h) Title 76, Chapter 6, Part 8, Library Theft;

21403 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

21404 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

21405 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

21406 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

21407 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

21408 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

21409 (o) Title 76, Chapter 6a, Pyramid Scheme Act;

21410 (p) Title 76, Chapter 7, Offenses Against the Family;

21411 (q) Title 76, Chapter 7a, Abortion Prohibition;

21412 (r) Title 76, Chapter 12, Part 2, Electronic Communication Abuse;

21413 (s) Title 76, Chapter 12, Part 3, Privacy Offenses; or

21414 (t) Title 76, Chapter 13, Offenses Involving Cruelty to Animals.

21415 [~~(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;~~]

21416 [~~(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;~~]

21417 [~~(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;~~]

- 21418 [~~(u) Title 76, Chapter 9, Part 5, Libel; or]~~
21419 [~~(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.]~~
- 21420 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial
21421 condition for an individual if:
- 21422 (a)(i) the individual is ineligible to be released on the individual's own recognizance
21423 under Section 77-20-203;
- 21424 (ii) the individual is arrested for, or charged with:
- 21425 (A) a misdemeanor offense under state law; or
21426 (B) a violation of a city or county ordinance that is classified as a class B or C
21427 misdemeanor offense;
- 21428 (iii) the individual agrees in writing to appear for any future criminal proceedings
21429 related to the arrest; and
- 21430 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 21431 (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
21432 (ii) the individual is not on pretrial release for a separate criminal offense;
21433 (iii) the individual is not on probation or parole;
21434 (iv) the primary risk posed by the individual is the risk of failure to appear;
21435 (v) the individual agrees in writing to appear for any future criminal proceedings
21436 related to the arrest; and
21437 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 21438 (3) A county jail official may not fix a financial condition at a monetary amount that
21439 exceeds:
- 21440 (a) \$5,000 for an eligible felony offense;
21441 (b) \$1,950 for a class A misdemeanor offense;
21442 (c) \$680 for a class B misdemeanor offense;
21443 (d) \$340 for a class C misdemeanor offense;
21444 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
21445 misdemeanor; or
21446 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
21447 misdemeanor.
- 21448 (4) If an individual is arrested for more than one offense, and the county jail official fixes a

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- 21449 financial condition for release:
- 21450 (a) the county jail official shall fix the financial condition at a single monetary amount;
- 21451 and
- 21452 (b) the single monetary amount may not exceed the monetary amount under Subsection
- 21453 (3) for the highest level of offense for which the individual is arrested.
- 21454 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
- 21455 posts a financial condition fixed by a county jail official in accordance with this section.
- 21456 (6) If a county jail official fixes a financial condition for an individual, law enforcement
- 21457 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
- 21458 Criminal Procedure after the county jail official fixes the financial condition.
- 21459 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
- 21460 Rules of Criminal Procedure:
- 21461 (a) a county jail official may not fix or modify a financial condition for an individual;
- 21462 and
- 21463 (b) if a county jail official fixed a financial condition for the individual before the
- 21464 magistrate's review, the individual may no longer be released on the financial
- 21465 condition.
- 21466 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
- 21467 individual by the Department of Corrections as described in Section 64-13-29.
- 21468 (9) This section does not prohibit a court and a county from entering into an agreement
- 21469 regarding release.

21470 Section 489. Section **77-22-2.5** is amended to read:

21471 **77-22-2.5 . Court orders for criminal investigations for records concerning an**

21472 **electronic communications system or service or remote computing service --**

21473 **Content -- Fee for providing information.**

- 21474 (1) As used in this section:
- 21475 (a)(i) "Electronic communication" means any transfer of signs, signals, writing,
- 21476 images, sounds, data, or intelligence of any nature transmitted in whole or in part
- 21477 by a wire, radio, electromagnetic, photoelectronic, or photooptical system.
- 21478 (ii) "Electronic communication" does not include:
- 21479 (A) a wire or oral communication;

- 21480 (B) a communication made through a tone-only paging device;
- 21481 (C) a communication from a tracking device; or
- 21482 (D) electronic funds transfer information stored by a financial institution in a
- 21483 communications system used for the electronic storage and transfer of funds.
- 21484 (b) "Electronic communications service" means a service which provides for users the
- 21485 ability to send or receive wire or electronic communications.
- 21486 (c) "Electronic communications system" means a wire, radio, electromagnetic,
- 21487 photooptical, or photoelectronic facilities for the transmission of wire or electronic
- 21488 communications, and a computer facilities or related electronic equipment for the
- 21489 electronic storage of the communication.
- 21490 (d) "Internet service provider" means the same as that term is defined in Section [
- 21491 76-10-1230] 76-5c-401.
- 21492 (e) "Prosecutor" means the same as that term is defined in Section 77-22-4.5.
- 21493 (f) "Remote computing service" means the provision to the public of computer storage
- 21494 or processing services by means of an electronic communications system.
- 21495 (g) "Sexual offense against a minor" means:
- 21496 (i) sexual exploitation of a minor or attempted sexual exploitation of a minor in
- 21497 violation of Section 76-5b-201;
- 21498 (ii) aggravated sexual exploitation of a minor or attempted aggravated sexual
- 21499 exploitation of a minor in violation of Section 76-5b-201.1;
- 21500 (iii) a sexual offense or attempted sexual offense committed against a minor in
- 21501 violation of Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section
- 21502 76-5-417, 76-5-418, 76-5-419, or 76-5-420;
- 21503 (iv) dealing in or attempting to deal in material harmful to a minor in violation of [
- 21504 Section 76-10-1206] Sections 76-5c-205 and 76-5c-206;
- 21505 (v) enticement of a minor or attempted enticement of a minor in violation of Section [
- 21506 76-4-401] 76-5-417;
- 21507 (vi) human trafficking of a child in violation of Section 76-5-308.5; or
- 21508 (vii) aggravated sexual extortion of a child in violation of Section 76-5b-204.
- 21509 (2) When a law enforcement agency is investigating a sexual offense against a minor, an
- 21510 offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under

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- 21511 Section 76-5-301.1, and has reasonable suspicion that an electronic communications
21512 system or service or remote computing service has been used in the commission of a
21513 criminal offense, a law enforcement agent shall:
- 21514 (a) articulate specific facts showing reasonable grounds to believe that the records or
21515 other information sought, as designated in Subsections (2)(c)(i) through (v), are
21516 relevant and material to an ongoing investigation;
 - 21517 (b) present the request to a prosecutor for review and authorization to proceed; and
 - 21518 (c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec.
21519 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or
21520 remote computing service provider that owns or controls the Internet protocol
21521 address, websites, email address, or service to a specific telephone number, requiring
21522 the production of the following information, if available, upon providing in the court
21523 order the Internet protocol address, email address, telephone number, or other
21524 identifier, and the dates and times the address, telephone number, or other identifier
21525 is suspected of being used in the commission of the offense:
 - 21526 (i) names of subscribers, service customers, and users;
 - 21527 (ii) addresses of subscribers, service customers, and users;
 - 21528 (iii) records of session times and durations;
 - 21529 (iv) length of service, including the start date and types of service utilized; and
 - 21530 (v) telephone or other instrument subscriber numbers or other subscriber identifiers,
21531 including a temporarily assigned network address.
- 21532 (3) A court order issued under this section shall state that the electronic communications
21533 system or service or remote computing service provider shall produce a record under
21534 Subsections (2)(c)(i) through (v) that is reasonably relevant to the investigation of the
21535 suspected criminal activity or offense as described in the court order.
- 21536 (4)(a) An electronic communications system or service or remote computing service
21537 provider that provides information in response to a court order issued under this
21538 section may charge a fee, not to exceed the actual cost, for providing the information.
- 21539 (b) The law enforcement agency conducting the investigation shall pay the fee.
- 21540 (5) The electronic communications system or service or remote computing service provider
21541 served with or responding to the court order may not disclose the court order to the

- 21542 account holder identified pursuant to the court order for a period of 90 days.
- 21543 (6) If the electronic communications system or service or remote computing service
21544 provider served with the court order does not own or control the Internet protocol
21545 address, websites, or email address, or provide service for the telephone number that is
21546 the subject of the court order, the provider shall notify the investigating law enforcement
21547 agency that the provider does not have the information.
- 21548 (7) There is no cause of action against a provider or wire or electronic communication
21549 service, or the provider or service's officers, employees, agents, or other specified
21550 persons, for providing information, facilities, or assistance in accordance with the terms
21551 of the court order issued under this section or statutory authorization.
- 21552 (8)(a) A court order issued under this section is subject to the provisions of Title 77,
21553 Chapter 23b, Access to Electronic Communications.
- 21554 (b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b,
21555 Access to Electronic Communications, apply to providers and subscribers subject to a
21556 court order issued under this section.
- 21557 (9) A prosecutorial agency shall annually on or before February 15 report to the
21558 Commission on Criminal and Juvenile Justice:
- 21559 (a) the number of requests for court orders authorized by the prosecutorial agency;
21560 (b) the number of orders issued by the court and the criminal offense, pursuant to
21561 Subsection (2), each order was used to investigate; and
21562 (c) if the court order led to criminal charges being filed, the type and number of offenses
21563 charged.
- 21564 Section 490. Section **77-23a-8** is amended to read:
- 21565 **77-23a-8 . Court order to authorize or approve interception -- Procedure.**
- 21566 (1) The attorney general of the state, any assistant attorney general specially designated by
21567 the attorney general, any county attorney, district attorney, deputy county attorney, or
21568 deputy district attorney specially designated by the county attorney or by the district
21569 attorney, may authorize an application to a judge of competent jurisdiction for an order
21570 for an interception of wire, electronic, or oral communications by any law enforcement
21571 agency of the state, the federal government or of any political subdivision of the state
21572 that is responsible for investigating the type of offense for which the application is made.

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- 21573 (2) The judge may grant the order in conformity with the required procedures when the
21574 interception sought may provide or has provided evidence of the commission of:
- 21575 (a) an act:
- 21576 (i) prohibited by the criminal provisions of:
- 21577 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 21578 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 21579 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
- 21580 (ii) punishable by a term of imprisonment of more than one year;
- 21581 (b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
21582 Securities Act, and punishable by a term of imprisonment of more than one year;
- 21583 (c) an offense:
- 21584 (i) of:
- 21585 (A) attempt under Section 76-4-101;
- 21586 (B) conspiracy under Section 76-4-201;
- 21587 (C) criminal solicitation of an adult, Section 76-4-203; or
- 21588 (D) criminal solicitation of a minor, Section 76-4-205; and
- 21589 (ii) punishable by a term of imprisonment of more than one year;
- 21590 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of
21591 more than one year under Section 76-5-107.3;
- 21592 (e)(i) aggravated murder under Section 76-5-202;
- 21593 (ii) murder under Section 76-5-203; or
- 21594 (iii) manslaughter under Section 76-5-205;
- 21595 (f)(i) kidnapping under Section 76-5-301;
- 21596 (ii) child kidnapping under Section 76-5-301.1;
- 21597 (iii) aggravated kidnapping under Section 76-5-302;
- 21598 (iv) human trafficking for labor under Section 76-5-308;
- 21599 (v) human trafficking for sexual exploitation under Section 76-5-308.1;
- 21600 (vi) human trafficking of a child under Section 76-5-308.5;
- 21601 (vii) human smuggling under Section 76-5-308.3;
- 21602 (viii) aggravated human trafficking under Section 76-5-310; or
- 21603 (ix) aggravated human smuggling under Section 76-5-310.1;

- 21604 (g)(i) arson under Section 76-6-102; or
- 21605 (ii) aggravated arson under Section 76-6-103;
- 21606 (h)(i) burglary under Section 76-6-202; or
- 21607 (ii) aggravated burglary under Section 76-6-203;
- 21608 (i)(i) robbery under Section 76-6-301; or
- 21609 (ii) aggravated robbery under Section 76-6-302;
- 21610 (j) an offense:
- 21611 (i) of:
- 21612 (A) theft under Section 76-6-404;
- 21613 (B) theft by deception under Section 76-6-405; or
- 21614 (C) theft by extortion under Section 76-6-406; and
- 21615 (ii) punishable by a maximum term of imprisonment of more than one year;
- 21616 (k) an offense of receiving stolen property that is punishable by a maximum term of
- 21617 imprisonment of more than one year under Section 76-6-408;
- 21618 (l) a financial card transaction offense punishable by a maximum term of imprisonment
- 21619 of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;
- 21620 (m) bribery of a labor official under Section 76-6-509;
- 21621 (n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;
- 21622 (o) a criminal simulation offense punishable by a maximum term of imprisonment of
- 21623 more than one year under Section 76-6-518;
- 21624 (p) criminal usury under Section 76-6-520;
- 21625 (q) insurance fraud punishable by a maximum term of imprisonment of more than one
- 21626 year under Section 76-6-521;
- 21627 (r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable
- 21628 by a maximum term of imprisonment of more than one year under Section 76-6-703;
- 21629 (s) bribery to influence official or political actions under Section 76-8-103;
- 21630 (t) misusing public money or public property under Section 76-8-402;
- 21631 (u) tampering with a witness under Section 76-8-508;
- 21632 (v) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 21633 (w) tampering or retaliating against a juror under Section 76-8-508.5;
- 21634 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

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- 21635 (y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 21636 (z) obstruction of justice in a criminal investigation or proceeding under Section
- 21637 76-8-306;
- 21638 (aa) harboring or concealing offender who has escaped from official custody under
- 21639 Section 76-8-309.2;
- 21640 (bb) destruction of property to interfere with preparations for defense or war under
- 21641 Section 76-8-802;
- 21642 (cc) an attempt to commit crimes of sabotage under Section 76-8-804;
- 21643 (dd) conspiracy to commit crimes of sabotage under Section 76-8-805;
- 21644 (ee) advocating criminal syndicalism or sabotage under Section 76-8-902;
- 21645 (ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;
- 21646 (gg) riot punishable by a maximum term of imprisonment of more than one year under
- 21647 Section 76-9-101;
- 21648 (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a
- 21649 maximum term of imprisonment of more than one year under Section ~~[76-9-301.1]~~
- 21650 76-13-205;
- 21651 ~~[(ii) possession, use, or removal of an explosive, chemical, or incendiary device and~~
- 21652 ~~parts under Section 76-10-306;]~~
- 21653 ~~[(jj)]~~ (ii) delivery to a common carrier or mailing of an explosive, chemical, or
- 21654 incendiary device under Section ~~[76-10-307]~~ 76-15-209;
- 21655 (jj) unlawful conduct involving an explosive, chemical, or incendiary device under
- 21656 Section 76-15-210;
- 21657 (kk) unlawful conduct involving an explosive, chemical, or incendiary part under
- 21658 Section 76-15-211;
- 21659 ~~[(kk)]~~ (ll) exploiting prostitution under Section ~~[76-10-1305]~~ 76-5d-207;
- 21660 ~~[(H)]~~ (mm) aggravated exploitation of prostitution under Section ~~[76-10-1306]~~ 76-5d-208;
- 21661 ~~[(mm)]~~ (nn) bus hijacking ~~[or assault with intent to commit hijacking]~~ under Section [
- 21662 ~~76-10-1504]~~ 76-9-1502;
- 21663 (oo) assault with intent to commit bus hijacking under Section 76-9-1503;
- 21664 ~~[(nn)]~~ (pp) ~~[discharging firearms and hurling missiles]~~ unlawful discharge of a firearm or
- 21665 hurling of a missile into a bus or terminal under Section [76-10-1505] 76-9-1504;

21666 [(oo)] (qq) violations under [Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity
21667 Act] Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity,
21668 and the offenses listed under the definition of unlawful activity in the act, including
21669 the offenses not punishable by a maximum term of imprisonment of more than one
21670 year when those offenses are investigated as predicates for the offenses prohibited by
21671 the act under Section [76-10-1602] 76-17-401;

21672 [(pp)] (rr) communications fraud under Section [76-10-1801] 76-6-525;

21673 [(qq)] (ss) money laundering under Sections [76-10-1903 and 76-10-1904] 76-9-1602 and
21674 76-9-1603; or

21675 [(rr)] (tt) reporting by a person engaged in a trade or business when the offense is
21676 punishable by a maximum term of imprisonment of more than one year under Section [
21677 76-10-1906] 76-9-1604.

21678 Section 491. Section **77-36-1** is amended to read:

21679 **77-36-1 . Definitions.**

21680 As used in this chapter:

21681 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

21682 (2) "Department" means the Department of Public Safety.

21683 (3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4,
21684 Part 4, Divorce.

21685 (4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense
21686 involving violence or physical harm or threat of violence or physical harm, or any
21687 attempt, conspiracy, or solicitation to commit a criminal offense involving violence
21688 or physical harm, when committed by one cohabitant against another.

21689 (b) "Domestic violence" or "domestic violence offense" includes the commission of or
21690 attempt to commit, any of the following offenses by one cohabitant against another:

21691 (i) aggravated assault under Section 76-5-103;

21692 (ii) aggravated cruelty to an animal under [Subsection 76-9-301(4)] Section 76-13-203,
21693 with the intent to harass or threaten the other cohabitant;

21694 (iii) assault under Section 76-5-102;

21695 (iv) criminal homicide under Section 76-5-201;

21696 (v) harassment under Section 76-5-106;

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- 21697 (vi) electronic communication harassment under [~~Section 76-9-201~~] Sections
21698 76-12-202, 76-12-203, and 76-12-204;
- 21699 (vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301,
21700 76-5-301.1, and 76-5-302;
- 21701 (viii) mayhem under Section 76-5-105;
- 21702 (ix) propelling a bodily substance or material, as described in Section 76-5-102.9
- 21703 (x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, not including
21704 Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, and [-]sexual exploitation of a
21705 minor and aggravated sexual exploitation of a minor, as described in Sections
21706 76-5b-201 and 76-5b-201.1;
- 21707 (xi) stalking under Section 76-5-106.5;
- 21708 (xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;
- 21709 (xiii) violation of a protective order or ex parte protective order under Section
21710 76-5-108;
- 21711 (xiv) an offense against property under Title 76, Chapter 6, Part 1, Property
21712 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title
21713 76, Chapter 6, Part 3, Robbery;
- 21714 (xv) possession of a deadly weapon with criminal intent under Section [~~76-10-507~~]
21715 76-11-206;
- 21716 (xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any
21717 person, building, or vehicle under Section [~~76-10-508~~] 76-11-207;
- 21718 (xvii) disorderly conduct under Section 76-9-102, if a conviction or adjudication of
21719 disorderly conduct is the result of a plea agreement in which the perpetrator was
21720 originally charged with a domestic violence offense otherwise described in this
21721 Subsection (4), except that a conviction or adjudication of disorderly conduct as a
21722 domestic violence offense, in the manner described in this Subsection (4)(p), does
21723 not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec.
21724 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;
- 21725 (xviii) child abuse under Section 76-5-114;
- 21726 (xix) threatening use of a dangerous weapon under Section [~~76-10-506~~] 76-11-205;
- 21727 (xx) threatening violence under Section 76-5-107;

- 21728 (xxi) tampering with a witness under Section 76-8-508;
- 21729 (xxii) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 21730 (xxiii) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 21731 (xxiv) unlawful distribution of an intimate image under Section 76-5b-203;
- 21732 (xxv) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;
- 21733 (xxvi) sexual battery under Section [76-9-702.1] 76-5-418;
- 21734 (xxvii) voyeurism under Section [76-9-702.7] 76-12-306;
- 21735 (xxviii) recorded or photographed voyeurism under Section 76-12-307;
- 21736 (xxix) distribution of images obtained through voyeurism under Section 76-12-308;
- 21737 [~~(xxviii)~~] (xxx) damage to or interruption of a communication device under Section
- 21738 76-6-108; or
- 21739 [~~(xxix)~~] (xxxi) an offense under Subsection 78B-7-806(1).
- 21740 (5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.
- 21741 (6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.
- 21742 (7) "Marital status" means married and living together, divorced, separated, or not married.
- 21743 (8) "Married and living together" means a couple whose marriage was solemnized under
- 21744 Section 81-2-305 or 81-2-407 and who are living in the same residence.
- 21745 (9) "Not married" means any living arrangement other than married and living together,
- 21746 divorced, or separated.
- 21747 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).
- 21748 (11) "Pretrial protective order" means a written order:
- 21749 (a) specifying and limiting the contact a person who has been charged with a domestic
- 21750 violence offense may have with an alleged victim or other specified individuals; and
- 21751 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,
- 21752 pending trial in the criminal case.
- 21753 (12) "Sentencing protective order" means a written order of the court as part of sentencing
- 21754 in a domestic violence case that limits the contact an individual who is convicted or
- 21755 adjudicated of a domestic violence offense may have with a victim or other specified
- 21756 individuals under Section 78B-7-804.
- 21757 (13) "Separated" means a couple who have had their marriage solemnized under Section
- 21758 81-2-305 or 81-2-407 and who are not living in the same residence.

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21759 (14) "Victim" means a cohabitant who has been subjected to domestic violence.

21760 Section 492. Section **77-36-2.1** is amended to read:

21761 **77-36-2.1 . Duties of law enforcement officers -- Notice to victims -- Lethality**
21762 **assessments.**

21763 (1) As used in this section:)

21764 (a) "Criminal justice system victim advocate" means the same as that term is defined in
21765 Section 77-38-403.

21766 (b)(i) "Dating relationship" means a social relationship of a romantic or intimate
21767 nature, or a relationship which has romance or intimacy as a goal by one or both
21768 parties, regardless of whether the relationship involves sexual intimacy.

21769 (ii) "Dating relationship" does not include casual fraternization in a business,
21770 educational, or social context.

21771 (c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an
21772 individual who is 16 years old or older who:

21773 (i) is or was a spouse of the other party;

21774 (ii) is or was living as if a spouse of the other party;

21775 (iii) has or had one or more children in common with the other party;

21776 (iv) is the biological parent of the other party's unborn child;

21777 (v) is or was in a consensual sexual relationship with the other party; or

21778 (vi) is or was in a dating relationship with the other party.

21779 (d) "Nongovernment organization victim advocate" means the same as that term is
21780 defined in Section 77-38-403.

21781 (e) "Primary purpose domestic violence organization" means a contract provider of
21782 domestic violence services as described in Section 80-2-301.

21783 (2) A law enforcement officer who responds to an allegation of domestic violence shall:

21784 (a) use all reasonable means to protect the victim and prevent further violence, including:

21785 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide
21786 for the safety of the victim and any family or household member;

21787 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;

21788 (iii) making arrangements for the victim and any child to obtain emergency housing
21789 or shelter;

- 21790 (iv) providing protection while the victim removes essential personal effects;
21791 (v) arrange, facilitate, or provide for the victim and any child to obtain medical
21792 treatment;
- 21793 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of
21794 the rights of victims and of the remedies and services available to victims of
21795 domestic violence, in accordance with Subsection (3); and
- 21796 (vii) providing the pamphlet created by the department under Section 53-5c-201 to
21797 the victim if the allegation of domestic violence:
21798 (A) includes a threat of violence as described in Section 76-5-107;
21799 (B) results, or would result, in the owner cohabitant becoming a restricted person
21800 under Section [~~76-10-503~~] 76-11-302; or
21801 (C) is accompanied by a completed lethality assessment that demonstrates the
21802 cohabitant is at high risk of being further victimized; and
- 21803 (b) if the allegation of domestic violence is against an intimate partner, complete the
21804 lethality assessment protocols described in this section.
- 21805 (3)(a) A law enforcement officer shall give written notice to the victim in simple
21806 language, describing the rights and remedies available under this chapter, Title 78B,
21807 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part
21808 2, Child Protective Orders.
- 21809 (b) The written notice shall include:
21810 (i) a statement that the forms needed in order to obtain an order for protection are
21811 available from the court clerk's office in the judicial district where the victim
21812 resides or is temporarily domiciled;
21813 (ii) a list of shelters, services, and resources available in the appropriate community,
21814 together with telephone numbers, to assist the victim in accessing any needed
21815 assistance; and
21816 (iii) the information required to be provided to both parties in accordance with
21817 Subsections 78B-7-802(8) and (9) .
- 21818 (4) If a weapon is confiscated under this section, the law enforcement agency shall return
21819 the weapon to the individual from whom the weapon is confiscated if a domestic
21820 violence protective order is not issued or once the domestic violence protective order is

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- 21821 terminated.
- 21822 (5) A law enforcement officer shall complete a lethality assessment form by asking the
- 21823 victim:
- 21824 (a) if the aggressor has ever used a weapon against the victim or threatened the victim
- 21825 with a weapon;
- 21826 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 21827 (c) if the victim believes the aggressor will try to kill the victim;
- 21828 (d) if the aggressor has ever tried to choke the victim;
- 21829 (e) if the aggressor has a gun or could easily get a gun;
- 21830 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
- 21831 activities of the victim;
- 21832 (g) if the victim left or separated from the aggressor after they were living together or
- 21833 married;
- 21834 (h) if the aggressor is unemployed;
- 21835 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
- 21836 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
- 21837 child;
- 21838 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for the
- 21839 victim; and
- 21840 (l) if there is anything else that worries the victim about the victim's safety and, if so,
- 21841 what worries the victim.
- 21842 (6) A law enforcement officer shall comply with Subsection (7) if:
- 21843 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through
- 21844 (d);
- 21845 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but
- 21846 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or
- 21847 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
- 21848 enforcement officer believes the victim is in a potentially lethal situation.
- 21849 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:
- 21850 (a) advise the victim of the results of the assessment;
- 21851 (b) refer the victim to a nongovernment organization victim advocate at a primary

- 21852 purpose domestic violence organization; and
- 21853 (c) refer the victim to a criminal justice system victim advocate if the responding law
- 21854 enforcement agency has a criminal justice system victim advocate available.
- 21855 (8) If a victim does not or is unable to provide information to a law enforcement officer
- 21856 sufficient to allow the law enforcement officer to complete a lethality assessment form,
- 21857 or does not speak or is unable to speak with a nongovernment organization victim
- 21858 advocate, the law enforcement officer shall document this information on the lethality
- 21859 assessment form and submit the information to the Department of Public Safety under
- 21860 Subsection (9).
- 21861 (9)(a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit
- 21862 the results of a lethality assessment to the Department of Public Safety while on
- 21863 scene.
- 21864 (b) If a law enforcement officer is not reasonably able to submit the results of a lethality
- 21865 assessment while on scene, the law enforcement officer shall submit the results of the
- 21866 lethality assessment to the Department of Public Safety as soon as practicable.
- 21867 (c)(i) Before the reporting mechanism described in Subsection (10)(a) is developed,
- 21868 a law enforcement officer shall submit the results of a lethality assessment to the
- 21869 Department of Public Safety using means prescribed by the Department of Public
- 21870 Safety.
- 21871 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a
- 21872 law enforcement officer shall submit the results of a lethality assessment to the
- 21873 Department of Public Safety using that reporting mechanism.
- 21874 (10) The Department of Public Safety shall:
- 21875 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law
- 21876 enforcement officer will submit the results of a lethality assessment as required by
- 21877 Subsection (9);
- 21878 (b) provide prompt analytical support to a law enforcement officer who submits the
- 21879 results of a lethality assessment using the reporting mechanism described in
- 21880 Subsection (10)(a); and
- 21881 (c) create and maintain a database of lethality assessment data provided under this
- 21882 section.

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- 21883 (11)(a) Subject to Subsection (11)(b), a law enforcement officer shall include the results
21884 of a lethality assessment and any related, relevant analysis provided by the
21885 Department of Public Safety under Subsection (10), with:
- 21886 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
21887 of Criminal Procedure; and
 - 21888 (ii) an incident report prepared in accordance with Section 77-36-2.2.
- 21889 (b) In a probable cause statement or incident report, a law enforcement officer may not
21890 include information about how or where a victim was referred under Subsection
21891 (7)(b).
- 21892 Section 493. Section **77-37-2** is amended to read:
- 21893 **77-37-2 . Definitions.**
- 21894 As used in this chapter:
- 21895 (1) "Alleged sexual offender" means the same as that term is defined in Section 53-10-801.
 - 21896 (2) "Child" means a person who is younger than 18 years old, unless otherwise specified in
21897 statute. The rights to information as extended in this chapter also apply to the parents,
21898 custodian, or legal guardians of children.
 - 21899 (3) "Family member" means spouse, child, sibling, parent, grandparent, or legal guardian.
 - 21900 (4) "HIV infection" means the same as that term is defined in Section 53-10-801.
 - 21901 (5) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.
 - 21902 (6) "Sexual offense" means any conduct described in:
 - 21903 (a) Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417,
 - 21904 76-5-418, 76-5-419, or 76-5-420;
 - 21905 (b) Title 76, Chapter 5b, Sexual Exploitation Act;
 - 21906 (c) Section 76-7-102, incest;
 - 21907 (d) Section [~~76-9-702~~] 76-5-419, lewdness; or
 - 21908 (e) Section [~~76-9-702.1~~] 76-5-418, sexual battery.
 - 21909 (7) "Victim" means an individual, including a minor, against whom an offense has been
21910 allegedly committed.
 - 21911 (8) "Witness" means any person who has been subpoenaed or is expected to be summoned
21912 to testify for the prosecution or who by reason of having relevant information is subject
21913 to call or likely to be called as a witness for the prosecution, whether any action or

21914 proceeding has commenced.

21915 Section 494. Section **77-38-3** is amended to read:

21916 **77-38-3 . Notification to victims -- Initial notice, election to receive subsequent**
21917 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no**
21918 **contact order.**

21919 (1) Within seven days after the day on which felony criminal charges are filed against a
21920 defendant, the prosecuting agency shall provide an initial notice to reasonably
21921 identifiable and locatable victims of the crime contained in the charges, except as
21922 otherwise provided in this chapter.

21923 (2) The initial notice to the victim of a crime shall provide information about electing to
21924 receive notice of subsequent important criminal justice hearings listed in Subsections
21925 77-38-2(5)(a) through (g) and rights under this chapter.

21926 (3) The prosecuting agency shall provide notice to a victim of a crime:

21927 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)
21928 through (g), which the victim has requested; and

21929 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.

21930 (4)(a) The responsible prosecuting agency may provide initial and subsequent notices in
21931 any reasonable manner, including telephonically, electronically, orally, or by means
21932 of a letter or form prepared for this purpose.

21933 (b) In the event of an unforeseen important criminal justice hearing, described in
21934 Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a
21935 good faith attempt to contact the victim by telephone shall be considered sufficient
21936 notice, provided that the prosecuting agency subsequently notifies the victim of the
21937 result of the proceeding.

21938 (5)(a) The court shall take reasonable measures to ensure that its scheduling practices
21939 for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an
21940 opportunity for victims of crimes to be notified.

21941 (b) The court shall consider whether any notification system that the court might use to
21942 provide notice of judicial proceedings to defendants could be used to provide notice
21943 of judicial proceedings to victims of crimes.

21944 (6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole,

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21945 shall give notice to the responsible prosecuting agency of any motion for modification of
21946 any determination made at any of the important criminal justice hearings provided in
21947 Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or
21948 action so that the prosecuting agency may comply with the prosecuting agency's
21949 notification obligation.

21950 (7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and
21951 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

21952 (b) The board may provide notice in any reasonable manner, including telephonically,
21953 electronically, orally, or by means of a letter or form prepared for this purpose.

21954 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to
21955 a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
21956 (g) only where the victim has responded to the initial notice, requested notice of
21957 subsequent proceedings, and provided a current address and telephone number if
21958 applicable.

21959 (9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a
21960 victim who seeks restitution and notice of restitution hearings shall provide the court
21961 with the victim's current address and telephone number.

21962 (10)(a) Law enforcement and criminal justice agencies shall refer any requests for
21963 notice or information about crime victim rights from victims to the responsible
21964 prosecuting agency.

21965 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
21966 prosecuting agency shall forward any request for notice the prosecuting agency has
21967 received from a victim to the Board of Pardons and Parole.

21968 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting
21969 agency may send any notices required under this chapter in the prosecuting agency's
21970 discretion to a representative sample of the victims.

21971 (12)(a) A victim's address, telephone number, and victim impact statement maintained
21972 by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile
21973 Justice and Youth Services, Department of Corrections, Utah State Courts, and Board
21974 of Pardons and Parole, for purposes of providing notice under this section, are
21975 classified as protected under Subsection 63G-2-305(10).

- 21976 (b) The victim's address, telephone number, and victim impact statement is available
21977 only to the following persons or entities in the performance of their duties:
- 21978 (i) a law enforcement agency, including the prosecuting agency;
 - 21979 (ii) a victims' right committee as provided in Section 77-37-5;
 - 21980 (iii) a governmentally sponsored victim or witness program;
 - 21981 (iv) the Department of Corrections;
 - 21982 (v) the Utah Office for Victims of Crime;
 - 21983 (vi) the Commission on Criminal and Juvenile Justice;
 - 21984 (vii) the Utah State Courts; and
 - 21985 (viii) the Board of Pardons and Parole.
- 21986 (13) The notice provisions as provided in this section do not apply to misdemeanors as
21987 provided in Section 77-38-5 and to important juvenile justice hearings as provided in
21988 Section 77-38-2.
- 21989 (14)(a) When a defendant is charged with a felony crime under Sections 76-5-301
21990 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling;
21991 Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section [
21992 ~~76-10-1306~~] 76-5d-208 regarding aggravated exploitation of prostitution, the court
21993 may, during any court hearing where the defendant is present, issue a pretrial
21994 criminal no contact order:
- 21995 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
21996 communicating with the victim directly or through a third party;
 - 21997 (ii) ordering the defendant to stay away from the residence, school, place of
21998 employment of the victim, and the premises of any of these, or any specified place
21999 frequented by the victim or any designated family member of the victim directly
22000 or through a third party; and
 - 22001 (iii) ordering any other relief that the court considers necessary to protect and provide
22002 for the safety of the victim and any designated family or household member of the
22003 victim.
- 22004 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
22005 third degree felony.
- 22006 (c)(i) The court shall provide to the victim a certified copy of any pretrial criminal

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22007 no contact order that has been issued if the victim can be located with reasonable
22008 effort.

22009 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
22010 domestic violence network in accordance with Section 78B-7-113.

22011 (15)(a) When a case involving a victim may resolve before trial with a plea deal, the
22012 prosecutor shall notify the victim of that possibility as soon as practicable.

22013 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
22014 explain the available details of an anticipated plea deal.

22015 Section 495. Section **77-38-601** is amended to read:

22016 **77-38-601 . Definitions.**

22017 As used in this part:

22018 (1) "Abuse" means any of the following:

22019 (a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

22020 (b) "child abuse" as that term is defined in Section 76-5-109.

22021 (2) "Actual address" means the residential street address of the program participant that is
22022 stated in a program participant's application for enrollment or on a notice of a change of
22023 address under Section 77-38-610.

22024 (3) "Assailant" means an individual who commits or threatens to commit abuse, human
22025 trafficking, domestic violence, stalking, or a sexual offense against an applicant for the
22026 program or a minor or incapacitated individual residing with an applicant for the
22027 program.

22028 (4) "Assigned address" means an address designated by the commission and assigned to a
22029 program participant.

22030 (5) "Authorization card" means a card issued by the commission that identifies a program
22031 participant as enrolled in the program with the program participant's assigned address
22032 and the date on which the program participant will no longer be enrolled in the program.

22033 (6) "Commission" means the State Commission on Criminal and Juvenile Justice created in
22034 Section 63M-7-201.

22035 (7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

22036 (8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

22037 (9) "Incapacitated individual" means an individual who is incapacitated, as defined in

- 22038 Section 75-1-201.
- 22039 (10)(a) "Mail" means first class letters or flats delivered by the United States Postal
22040 Service, including priority, express, and certified mail.
- 22041 (b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the
22042 package, parcel, periodical, or catalogue is clearly identifiable as:
- 22043 (i) being sent by a federal, state, or local agency or another government entity; or
22044 (ii) a pharmaceutical or medical item.
- 22045 (11) "Minor" means an individual who is younger than 18 years old.
- 22046 (12) "Notification form" means a form issued by the commission that a program participant
22047 may send to a person demonstrating that the program participant is enrolled in the
22048 program.
- 22049 (13) "Program" means the Safe at Home Program created in Section 77-38-602.
- 22050 (14) "Program assistant" means an individual designated by the commission under Section
22051 77-38-604 to assist an applicant or program participant.
- 22052 (15) "Program participant" means an individual who is enrolled under Section 77-38-606 by
22053 the commission to participate in the program.
- 22054 (16) "Record" means the same as that term is defined in Section 63G-2-103.
- 22055 (17) "Sexual offense" means:
- 22056 (a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, not including
22057 Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or
- 22058 (b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.
- 22059 (18) "Stalking" means the same as that term is defined in Section 76-5-106.5.
- 22060 (19) "State or local government entity" means a county, municipality, higher education
22061 institution, special district, special service district, or any other political subdivision of
22062 the state or an administrative subunit of the executive, legislative, or judicial branch of
22063 this state, including:
- 22064 (a) a law enforcement entity or any other investigative entity, agency, department,
22065 division, bureau, board, or commission; or
- 22066 (b) an individual acting or purporting to act for or on behalf of a state or local entity,
22067 including an elected or appointed public official.
- 22068 (20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or

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22069 sexual assault.

22070 Section 496. Section **77-39-101** is amended to read:

22071 **77-39-101 . Investigation of sales of alcohol, tobacco products, electronic**
22072 **cigarette products, nicotine products, and cannabinoid products to underage**
22073 **individuals.**

22074 (1) As used in this section:

22075 (a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

22076 (b) "Electronic cigarette product" means the same as that term is defined in Section [
22077 ~~76-10-101~~] 76-9-1101.

22078 (c) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]
22079 76-9-1101.

22080 (d) "Peace officer" means the same as the term is described in Section 53-13-109.

22081 (e) "Tobacco product" means the same as that term is defined in Section [~~76-10-101~~]
22082 76-9-1101.

22083 (2)(a) A peace officer may investigate the possible violation of:

22084 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into
22085 and attempt to purchase or make a purchase of alcohol from a retail establishment;

22086 (ii) Section [~~76-10-114~~] 76-9-1116 by requesting an individual under 21 years old to
22087 enter into and attempt to purchase or make a purchase from a retail establishment
22088 of:

22089 (A) a tobacco product;

22090 (B) an electronic cigarette product; or

22091 (C) a nicotine product; or

22092 (iii) Subsection 4-41-105(2)(d) by requesting an individual under 21 years old to
22093 enter into and attempt to purchase or make a purchase of a cannabinoid product
22094 that contains THC or a THC analog from a retail establishment.

22095 (b) A peace officer who is present at the site of a proposed purchase shall direct,
22096 supervise, and monitor the individual requested to make the purchase.

22097 (c) Immediately following a purchase or attempted purchase or as soon as practical the
22098 supervising peace officer shall inform the cashier and the proprietor or manager of
22099 the retail establishment that the attempted purchaser was under the legal age to

- 22100 purchase:
- 22101 (i) alcohol;
- 22102 (ii)(A) a tobacco product;
- 22103 (B) an electronic cigarette product; or
- 22104 (C) a nicotine product; or
- 22105 (iii) a cannabinoid product that contains THC or a THC analog.
- 22106 (d) If a citation or information is issued, the citation or information shall be issued
- 22107 within seven days after the day on which the purchase occurs.
- 22108 (3)(a) If an individual under 18 years old is requested to attempt a purchase, a written
- 22109 consent of that individual's parent or guardian shall be obtained before the individual
- 22110 participates in any attempted purchase.
- 22111 (b) An individual requested by the peace officer to attempt a purchase may:
- 22112 (i) be a trained volunteer; or
- 22113 (ii) receive payment, but may not be paid based on the number of successful
- 22114 purchases of alcohol, tobacco products, electronic cigarette products, nicotine
- 22115 products, or cannabinoid products that contain THC or a THC analog.
- 22116 (4) The individual requested by the peace officer to attempt a purchase and anyone
- 22117 accompanying the individual attempting a purchase may use false identification in
- 22118 attempting the purchase if:
- 22119 (a) the Department of Public Safety created in Section 53-1-103 provides the false
- 22120 identification;
- 22121 (b) the false identification:
- 22122 (i) accurately represents the individual's age; and
- 22123 (ii) displays a current photo of the individual; and
- 22124 (c) the peace officer maintains possession of the false identification at all times outside
- 22125 the attempt to purchase.
- 22126 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
- 22127 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
- 22128 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product,
- 22129 a nicotine product, or a cannabinoid product that contains THC or a THC analog if a
- 22130 peace officer directs, supervises, and monitors the individual.

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- 22131 (6)(a) Except as provided in Subsection (6)(b), a purchase attempted under this section
22132 shall be conducted within a 12-month period:
- 22133 (i) on a random basis at any one retail establishment location, not more often than
22134 four times for the attempted purchase of alcohol;
 - 22135 (ii) a minimum of two times at a retail establishment that sells tobacco products,
22136 electronic cigarette products, or nicotine products for the attempted purchase of a
22137 tobacco product, an electronic cigarette product, or a nicotine product; and
 - 22138 (iii) a minimum of one time at a retail establishment that sells a cannabinoid product
22139 that contains THC or a THC analog.
- 22140 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a
22141 tobacco product, an electronic cigarette product, or a nicotine product under this
22142 section if:
- 22143 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
22144 tobacco product, an electronic cigarette product, a nicotine product, or a
22145 cannabinoid product that contains THC or a THC analog to an individual under
22146 the age established by Section 32B-4-403, Section ~~[76-10-114]~~ 76-9-1116, or
22147 Subsection 4-41-105(2)(d); and
 - 22148 (ii) the supervising peace officer makes a written record of the grounds for the
22149 reasonable suspicion.
- 22150 (7)(a) The peace officer exercising direction, supervision, and monitoring of the
22151 attempted purchase shall make a report of the attempted purchase, whether or not a
22152 purchase was made.
- 22153 (b) The report required by this Subsection (7) shall include:
- 22154 (i) the name of the supervising peace officer;
 - 22155 (ii) the name of the individual attempting the purchase;
 - 22156 (iii) a photograph of the individual attempting the purchase showing how that
22157 individual appeared at the time of the attempted purchase;
 - 22158 (iv) the name and description of the cashier or proprietor from whom the individual
22159 attempted the purchase;
 - 22160 (v) the name and address of the retail establishment; and
 - 22161 (vi) the date and time of the attempted purchase.

22162 Section 497. Section **77-40a-101** is amended to read:

22163 **77-40a-101 . Definitions.**

22164 As used in this chapter:

22165 (1) "Agency" means a state, county, or local government entity that generates or maintains
22166 records relating to an investigation, arrest, detention, or conviction for an offense for
22167 which expungement may be ordered.

22168 (2) "Automatic expungement" means the expungement of records of an investigation,
22169 arrest, detention, or conviction of an offense without the filing of a petition.

22170 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
22171 Safety established in Section 53-10-201.

22172 (4) "Certificate of eligibility" means a document issued by the bureau stating that the
22173 criminal record and all records of arrest, investigation, and detention associated with a
22174 case that is the subject of a petition for expungement is eligible for expungement.

22175 (5) "Civil accounts receivable" means the same as that term is defined in Section
22176 77-32b-102.

22177 (6) "Civil judgment of restitution" means the same as that term is defined in Section
22178 77-32b-102.

22179 (7) "Clean slate eligible case" means a case that is eligible for automatic expungement
22180 under Section 77-40a-205.

22181 (8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after
22182 trial, a plea of guilty, or a plea of nolo contendere.

22183 (9) "Court" means a district court or a justice court.

22184 (10) "Criminal accounts receivable" means the same as that term is defined in Section
22185 77-32b-102.

22186 (11) "Criminal protective order" means the same as that term is defined in Section
22187 78B-7-102.

22188 (12) "Criminal stalking injunction" means the same as that term is defined in Section
22189 78B-7-102.

22190 (13) "Department" means the Department of Public Safety established in Section 53-1-103.

22191 (14) "Drug possession offense" means:

22192 (a) an offense described in Subsection 58-37-8(2), except for:

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- 22193 (i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more
22194 of marijuana;
- 22195 (ii) an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
22196 facility; or
- 22197 (iii) an offense for driving with a controlled substance illegally in the person's body
22198 and negligently causing serious bodily injury or death of another, as codified
22199 before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
22200 58-37-8(2)(g);
- 22201 (b) an offense described in Subsection 58-37a-5(1), use or possession of drug
22202 paraphernalia;
- 22203 (c) an offense described in Section 58-37b-6, possession or use of an imitation
22204 controlled substance; or
- 22205 (d) any local ordinance which is substantially similar to any of the offenses described in
22206 this Subsection (14).
- 22207 (15)(a) "Expunge" means to remove a record from public inspection by:
- 22208 (i) sealing the record; or
- 22209 (ii) restricting or denying access to the record.
- 22210 (b) "Expunge" does not include the destruction of a record.
- 22211 (16) "Indigent" means a financial status that results from a court finding that a petitioner is
22212 financially unable to pay the fee to file a petition for expungement under Section
22213 78A-2-302.
- 22214 (17) "Jurisdiction" means a state, district, province, political subdivision, territory, or
22215 possession of the United States or any foreign country.
- 22216 (18)(a) "Minor regulatory offense" means, except as provided in Subsection (18)(c), a
22217 class B or C misdemeanor offense or a local ordinance.
- 22218 (b) "Minor regulatory offense" includes an offense under Section [~~76-9-701~~] 76-9-110 or [~~76-10-105~~] 76-9-1106.
- 22219
- 22220 (c) "Minor regulatory offense" does not include:
- 22221 (i) any drug possession offense;
- 22222 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
22223 Reckless Driving;

- 22224 (iii) an offense under Sections 73-18-13 through 73-18-13.6;
- 22225 (iv) except as provided in Subsection (18)(b), an offense under Title 76, Utah
- 22226 Criminal Code; or
- 22227 (v) any local ordinance that is substantially similar to an offense listed in Subsections
- 22228 (18)(c)(i) through (iv).
- 22229 (19) "Petitioner" means an individual applying for expungement under this chapter.
- 22230 (20) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.
- 22231 (21) "Record" means a book, letter, document, paper, map, plan, photograph, film, card,
- 22232 tape, recording, electronic data, or other documentary material, regardless of physical
- 22233 form or characteristics, that:
- 22234 (a) is contained in the agency's file regarding the arrest, detention, investigation,
- 22235 conviction, sentence, incarceration, probation, or parole of an individual; and
- 22236 (b) is prepared, owned, received, or retained by an agency, including a court.
- 22237 (22) "Special certificate" means a document issued as described in Subsection
- 22238 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest,
- 22239 investigation, and detention associated with the case that is the subject of a petition for
- 22240 expungement is eligible for expungement.
- 22241 (23)(a) "Traffic offense" means, except as provided in Subsection (23)(b):
- 22242 (i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
- 22243 under Title 41, Chapter 6a, Traffic Code;
- 22244 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
- 22245 under Title 53, Chapter 3, Part 2, Driver Licensing Act;
- 22246 (iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
- 22247 under Title 73, Chapter 18, State Boating Act; and
- 22248 (iv) all local ordinances that are substantially similar to an offense listed in
- 22249 Subsections (23)(a)(i) through (iii).
- 22250 (b) "Traffic offense" does not mean:
- 22251 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
- 22252 Reckless Driving;
- 22253 (ii) an offense under Sections 73-18-13 through 73-18-13.6; or
- 22254 (iii) any local ordinance that is substantially similar to an offense listed in Subsection

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22255 (23)(b)(i) or (ii).

22256 (24) "Traffic offense case" means that each offense in the case is a traffic offense.

22257 Section 498. Section **77-40a-205** is amended to read:

22258 **77-40a-205 . Automatic expungement of state records for a clean slate case.**

22259 (1) A court shall issue an order of expungement, without the filing of a petition, for all
22260 records of the case that are held by the court and the bureau if:

22261 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
22262 form requesting expungement of a case as described in Section 77-40a-204;

22263 (b) the case is eligible for expungement under this section; and

22264 (c) the prosecuting agency does not object to the expungement of the case as described
22265 in Subsection (6).

22266 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
22267 under this section if:

22268 (a)(i) each conviction within the case is a conviction for:

22269 (A) a misdemeanor offense for possession of a controlled substance in violation of
22270 Subsection 58-37-8(2)(a)(i);

22271 (B) a class B misdemeanor offense;

22272 (C) a class C misdemeanor offense; or

22273 (D) an infraction; and

22274 (ii) the following time periods have passed after the day on which the individual is
22275 adjudicated:

22276 (A) at least five years for the conviction of a class C misdemeanor offense or an
22277 infraction;

22278 (B) at least six years for the conviction of a class B misdemeanor offense; or

22279 (C) at least seven years for the conviction of a class A misdemeanor offense for
22280 possession of a controlled substance in violation of Subsection 58-37-8

22281 (2)(a)(i); or

22282 (b)(i) the case is dismissed as a result of a successful completion of a plea in
22283 abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is
22284 dismissed without prejudice;

22285 (ii) each charge within the case is:

- 22286 (A) a misdemeanor offense for possession of a controlled substance in violation of
22287 Subsection 58-37-8(2)(a)(i);
- 22288 (B) a class B misdemeanor offense;
- 22289 (C) a class C misdemeanor offense; or
- 22290 (D) an infraction; and
- 22291 (iii) the following time periods have passed after the day on which the case is
22292 dismissed:
- 22293 (A) at least five years for a charge in the case for a class C misdemeanor offense
22294 or an infraction;
- 22295 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
- 22296 (C) at least seven years for a charge in the case for a class A misdemeanor offense
22297 for possession of a controlled substance in violation of Subsection 58-37-8
22298 (2)(a)(i).
- 22299 (3) A case is not eligible for expungement under this section if:
- 22300 (a) the individual has a total number of convictions in courts of this state that exceed the
22301 limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
- 22302 (i) the exception in Subsection 77-40a-303(7); or
- 22303 (ii) any infraction, traffic offense, or minor regulatory offense;
- 22304 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
22305 court of this state against the individual, unless the proceeding is for a traffic offense;
- 22306 (c) for an individual seeking an automatic expungement on and after January 1, 2025,
22307 the individual is incarcerated in the state prison or on probation or parole that is
22308 supervised by the Department of Corrections;
- 22309 (d) the case resulted in the individual being found not guilty by reason of insanity;
- 22310 (e) the case establishes a criminal accounts receivable that:
- 22311 (i) has been entered as a civil accounts receivable or a civil judgment of restitution
22312 and transferred to the Office of State Debt Collection under Section 77-18-114; or
- 22313 (ii) has not been satisfied according to court records; or
- 22314 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
- 22315 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
- 22316 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against

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- 22317 the Individual;
- 22318 (iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title
- 22319 76, Chapter 11, Weapons;
- 22320 (iv) sexual battery in violation of Section [~~76-9-702.1~~] 76-5-418;
- 22321 (v) an act of lewdness in violation of Section [~~76-9-702~~] 76-5-419 or [~~76-9-702.5~~]
- 22322 76-5-420;
- 22323 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the
- 22324 Influence and Reckless Driving;
- 22325 (vii) damage to or interruption of a communication device in violation of Section
- 22326 76-6-108;
- 22327 (viii) a domestic violence offense as defined in Section 77-36-1; or
- 22328 (ix) any other offense classified in the Utah Code as a felony or a class A
- 22329 misdemeanor other than a class A misdemeanor conviction for possession of a
- 22330 controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 22331 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
- 22332 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency
- 22333 that appears to be eligible for automatic expungement under this section.
- 22334 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the
- 22335 prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah
- 22336 Rules of Criminal Procedure if the prosecuting agency objects to an automatic
- 22337 expungement for any of the following reasons:
- 22338 (a) the prosecuting agency believes that the case is not eligible for expungement under
- 22339 this section after reviewing the agency record;
- 22340 (b) the individual has not paid restitution to the victim as ordered by the court; or
- 22341 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
- 22342 individual involved in the case is continuing to engage in criminal activity within or
- 22343 outside of the state.
- 22344 (6) If a prosecuting agency provides written notice of an objection for a reason described in
- 22345 Subsection (5) within 35 days after the day on which the notice under Subsection (4) is
- 22346 sent, the court may not proceed with automatic expungement of the case.
- 22347 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent

- 22348 without the prosecuting agency providing written notice of an objection under
22349 Subsection (5), the court shall proceed with automatic expungement of the case.
- 22350 (8) If a court issues an order of expungement under Subsection (1), the court shall:
- 22351 (a) expunge all records of the case held by the court in accordance with Section
22352 77-40a-401; and
- 22353 (b) notify the bureau and the prosecuting agency identified in the case, based on
22354 information available to the court, of the order of expungement.
- 22355 Section 499. Section **77-40a-403** is amended to read:
- 22356 **77-40a-403 . Release and use of expunged records -- Agencies.**
- 22357 (1)(a) An agency with an expunged record, or any employee of an agency with an
22358 expunged record, may not knowingly or intentionally divulge any information
22359 contained in the expunged record to any person, or another agency, without a court
22360 order unless:
- 22361 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or
22362 (ii) subject to Subsection (1)(b), the information in an expunged record is being
22363 shared with another agency through a records management system that both
22364 agencies use for the purpose of record management.
- 22365 (b) An agency with a records management system may not disclose any information in
22366 an expunged record to another agency or person, or allow another agency or person
22367 access to an expunged record, if that agency or person does not use the records
22368 management system for the purpose of record management.
- 22369 (2) The following entities or agencies may receive information contained in expunged
22370 records upon specific request:
- 22371 (a) the Board of Pardons and Parole;
22372 (b) Peace Officer Standards and Training;
22373 (c) federal authorities if required by federal law;
22374 (d) the State Board of Education;
22375 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
22376 applicants for judicial office; and
22377 (f) a research institution or an agency engaged in research regarding the criminal justice
22378 system if:

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- 22379 (i) the research institution or agency provides a legitimate research purpose for
22380 gathering information from the expunged records;
- 22381 (ii) the research institution or agency enters into a data sharing agreement with the
22382 court or agency with custody of the expunged records that protects the
22383 confidentiality of any identifying information in the expunged records;
- 22384 (iii) any research using expunged records does not include any individual's name or
22385 identifying information in any product of that research; and
- 22386 (iv) any product resulting from research using expunged records includes a disclosure
22387 that expunged records were used for research purposes.
- 22388 (3) Except as otherwise provided by this section or by court order, a person, an agency, or
22389 an entity authorized by this section to view expunged records may not reveal or release
22390 any information obtained from the expunged records to anyone outside the specific
22391 request, including distribution on a public website.
- 22392 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another
22393 prosecutorial agency, regarding information in an expunged record that includes a
22394 conviction, or a charge dismissed as a result of a successful completion of a plea in
22395 abeyance agreement, for:
- 22396 (a) stalking as described in Section 76-5-106.5;
- 22397 (b) a domestic violence offense as defined in Section 77-36-1;
- 22398 (c) an offense that would require the individual to register as a sex offender, kidnap
22399 offender, or child abuse offender as defined in Section 77-41-102; or
- 22400 (d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter
22401 11, Weapons.
- 22402 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged
22403 record for the purpose of a sentencing enhancement or as a basis for charging an
22404 individual with an offense that requires a prior conviction.
- 22405 (6) The bureau may also use the information in the bureau's index as provided in Section
22406 53-5-704.
- 22407 (7) If an individual is charged with a felony, or an offense eligible for enhancement based
22408 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
22409 may petition the court in which the individual is charged to open the expunged records

- 22410 upon a showing of good cause.
- 22411 (8)(a) For judicial sentencing, a court may order any records expunged under this
22412 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 22413 (b) The records are confidential and are available for inspection only by the court,
22414 parties, counsel for the parties, and any other person who is authorized by the court to
22415 inspect them.
- 22416 (c) At the end of the action or proceeding, the court shall order the records expunged
22417 again.
- 22418 (d) Any person authorized by this Subsection (8) to view expunged records may not
22419 reveal or release any information obtained from the expunged records to anyone
22420 outside the court.
- 22421 (9) Records released under this chapter are classified as protected under Section 63G-2-305
22422 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
22423 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.
22424 Section 500. Section **77-41-102** is amended to read:
22425 **77-41-102 . Definitions.**
22426 As used in this chapter:
- 22427 (1) "Child abuse offender" means an individual:
- 22428 (a) who has been convicted in this state of a violation of:
- 22429 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or
22430 (ii) attempting, soliciting, or conspiring to commit aggravated child abuse under
22431 Subsection 76-5-109.2(3)(a) or (b);
- 22432 (b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to
22433 commit a crime in another jurisdiction, including a state, federal, or military court,
22434 that is substantially equivalent to the offense listed in Subsection (1)(a); and
22435 (ii)(A) who is a Utah resident; or
22436 (B) who is not a Utah resident but is in this state for a total of 10 days in a
22437 12-month period, regardless of whether the offender intends to permanently
22438 reside in this state;
- 22439 (c)(i)(A) who is required to register as a child abuse offender in another
22440 jurisdiction of original conviction;

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- 22441 (B) who is required to register as a child abuse offender by a state, a federal, or a
22442 military court; or
- 22443 (C) who would be required to register as a child abuse offender if residing in the
22444 jurisdiction of the conviction regardless of the date of the conviction or a
22445 previous registration requirement; and
- 22446 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of
22447 whether the offender intends to permanently reside in this state;
- 22448 (d)(i)(A) who is a nonresident regularly employed or working in this state; or
22449 (B) who is a student in this state; and
- 22450 (ii)(A) who was convicted of the offense listed in Subsection (1)(a) or a
22451 substantially equivalent offense in another jurisdiction; or
22452 (B) who is required to register in the individual's state of residence based on a
22453 conviction for an offense that is not substantially equivalent to an offense listed
22454 in Subsection (1)(a);
- 22455 (e) who is found not guilty by reason of insanity in this state or in another jurisdiction of
22456 the offense listed in Subsection (1)(a); or
- 22457 (f)(i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection
22458 (1)(a); and
- 22459 (ii) who has been committed to the division for secure care, as defined in Section
22460 80-1-102, for that offense if:
- 22461 (A) the individual remains in the division's custody until 30 days before the
22462 individual's 21st birthday;
- 22463 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
22464 under Section 80-6-605 and the individual remains in the division's custody
22465 until 30 days before the individual's 25th birthday; or
- 22466 (C) the individual is moved from the division's custody to the custody of the
22467 department before expiration of the division's jurisdiction over the individual.
- 22468 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
22469 Safety established in section 53-10-201.
- 22470 (3) "Business day" means a day on which state offices are open for regular business.
- 22471 (4) "Certificate of eligibility" means a document issued by the Bureau of Criminal

- 22472 Identification showing that the offender has met the requirements of Section 77-41-112.
- 22473 (5)(a) "Convicted" means a plea or conviction of:
- 22474 (i) guilty;
- 22475 (ii) guilty with a mental illness; or
- 22476 (iii) no contest.
- 22477 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
- 22478 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.
- 22479 (c) "Convicted" does not include:
- 22480 (i) a withdrawn or dismissed plea in abeyance;
- 22481 (ii) a diversion agreement; or
- 22482 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 22483 (6) "Department" means the Department of Public Safety.
- 22484 (7) "Division" means the Division of Juvenile Justice and Youth Services.
- 22485 (8) "Employed" or "carries on a vocation" includes employment that is full time or part
- 22486 time, whether financially compensated, volunteered, or for the purpose of government or
- 22487 educational benefit.
- 22488 (9) "Indian Country" means:
- 22489 (a) all land within the limits of any Indian reservation under the jurisdiction of the
- 22490 United States government, regardless of the issuance of any patent, and includes
- 22491 rights-of-way running through the reservation;
- 22492 (b) all dependent Indian communities within the borders of the United States whether
- 22493 within the original or subsequently acquired territory, and whether or not within the
- 22494 limits of a state; and
- 22495 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
- 22496 not been extinguished, including rights-of-way running through the allotments.
- 22497 (10) "Jurisdiction" means any state, Indian Country, United States Territory, or property
- 22498 under the jurisdiction of the United States military, Canada, the United Kingdom,
- 22499 Australia, or New Zealand.
- 22500 (11) "Kidnap offender" means an individual, other than a natural parent of the victim:
- 22501 (a) who has been convicted in this state of a violation of:
- 22502 (i) kidnapping under Subsection 76-5-301(2)(c) or (d);

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- 22503 (ii) child kidnapping under Section 76-5-301.1;
- 22504 (iii) aggravated kidnapping under Section 76-5-302;
- 22505 (iv) human trafficking for labor under Section 76-5-308;
- 22506 (v) human smuggling under Section 76-5-308.3;
- 22507 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
- 22508 (vii) aggravated human trafficking under Section 76-5-310;
- 22509 (viii) aggravated human smuggling under Section 76-5-310.1;
- 22510 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or
- 22511 (x) attempting, soliciting, or conspiring to commit a felony offense listed in
- 22512 Subsections (11)(a)(i) through (ix);
- 22513 (b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to
- 22514 commit a crime in another jurisdiction, including a state, federal, or military court,
- 22515 that is substantially equivalent to the offenses listed in Subsection (11)(a); and
- 22516 (ii)(A) who is a Utah resident; or
- 22517 (B) who is not a Utah resident but is in this state for a total of 10 days in a
- 22518 12-month period, regardless of whether the offender intends to permanently
- 22519 reside in this state;
- 22520 (c)(i)(A) who is required to register as a kidnap offender in another jurisdiction
- 22521 of original conviction;
- 22522 (B) who is required to register as a kidnap offender by a state, federal, or military
- 22523 court; or
- 22524 (C) who would be required to register as a kidnap offender if residing in the
- 22525 jurisdiction of the conviction regardless of the date of the conviction or a
- 22526 previous registration requirement; and
- 22527 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of
- 22528 whether the offender intends to permanently reside in this state;
- 22529 (d)(i)(A) who is a nonresident regularly employed or working in this state; or
- 22530 (B) who is a student in this state; and
- 22531 (ii)(A) who was convicted of one or more offenses listed in Subsection (11)(a) or
- 22532 any substantially equivalent offense in another jurisdiction; or
- 22533 (B) who is required to register in the individual's state of residence based on a

- 22534 conviction for an offense that is not substantially equivalent to an offense listed
22535 in Subsection (11)(a);
- 22536 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
22537 of one or more offenses listed in Subsection (11)(a); or
- 22538 (f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
22539 Subsection (11)(a); and
- 22540 (ii) who has been committed to the division for secure care, as defined in Section
22541 80-1-102, for that offense if:
- 22542 (A) the individual remains in the division's custody until 30 days before the
22543 individual's 21st birthday;
- 22544 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
22545 under Section 80-6-605 and the individual remains in the division's custody
22546 until 30 days before the individual's 25th birthday; or
- 22547 (C) the individual is moved from the division's custody to the custody of the
22548 department before expiration of the division's jurisdiction over the individual.
- 22549 (12) "Natural parent" means a minor's biological or adoptive parent, including the minor's
22550 noncustodial parent.
- 22551 (13) "Offender" means a child abuse offender, kidnap offender, or sex offender.
- 22552 (14) "Online identifier" or "Internet identifier":
- 22553 (a) means any electronic mail, chat, instant messenger, social networking, or similar
22554 name used for Internet communication; and
- 22555 (b) does not include date of birth, social security number, PIN number, or Internet
22556 passwords.
- 22557 (15) "Primary residence" means the location where the offender regularly resides, even if
22558 the offender intends to move to another location or return to another location at a future
22559 date.
- 22560 (16) "Register" means to comply with the requirements of this chapter and administrative
22561 rules of the department made under this chapter.
- 22562 (17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification
22563 and Registration website described in Section 77-41-110 and the information on the
22564 website.

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- 22565 (18) "Secondary residence" means real property that the offender owns or has a financial
22566 interest in, or a location where the offender stays overnight a total of 10 or more nights
22567 in a 12-month period when not staying at the offender's primary residence.
- 22568 (19) "Sex offender" means an individual:
- 22569 (a) convicted in this state of:
- 22570 (i) a felony or class A misdemeanor violation of enticing a minor under Section [
22571 ~~76-4-401~~] 76-5-417;
- 22572 (ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 22573 (iii) human trafficking for sexual exploitation under Section 76-5-308.1;
- 22574 (iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5
22575 (4)(b);
- 22576 (v) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 22577 (vi) human trafficking of a vulnerable adult for sexual exploitation under Section
22578 76-5-311;
- 22579 (vii) unlawful sexual activity with a minor under Section 76-5-401, except as
22580 provided in Subsection 76-5-401(3)(b) or (c);
- 22581 (viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in
22582 Subsection 76-5-401.1(3);
- 22583 (ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 22584 (x) rape under Section 76-5-402;
- 22585 (xi) rape of a child under Section 76-5-402.1;
- 22586 (xii) object rape under Section 76-5-402.2;
- 22587 (xiii) object rape of a child under Section 76-5-402.3;
- 22588 (xiv) a felony violation of forcible sodomy under Section 76-5-403;
- 22589 (xv) sodomy on a child under Section 76-5-403.1;
- 22590 (xvi) forcible sexual abuse under Section 76-5-404;
- 22591 (xvii) sexual abuse of a child under Section 76-5-404.1;
- 22592 (xviii) aggravated sexual abuse of a child under Section 76-5-404.3;
- 22593 (xix) aggravated sexual assault under Section 76-5-405;
- 22594 (xx) custodial sexual relations under Section 76-5-412, when the individual in
22595 custody is younger than 18 years old, if the offense is committed on or after May

- 22596 10, 2011;
- 22597 (xxi) sexual exploitation of a minor under Section 76-5b-201;
- 22598 (xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 22599 (xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
- 22600 (xxiv) incest under Section 76-7-102;
- 22601 (xxv) lewdness under Section [~~76-9-702~~] 76-5-419, if the individual has been
- 22602 convicted of the offense four or more times;
- 22603 (xxvi) sexual battery under Section [~~76-9-702.1~~] 76-5-418, if the individual has been
- 22604 convicted of the offense four or more times;
- 22605 (xxvii) any combination of convictions of lewdness under Section [~~76-9-702~~]
- 22606 76-5-419, and of sexual battery under Section [~~76-9-702.1~~] 76-5-418, that total
- 22607 four or more convictions;
- 22608 (xxviii) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420;
- 22609 (xxix) a felony or class A misdemeanor violation of:
- 22610 (A) voyeurism under Section [~~76-9-702.7~~] 76-12-306;
- 22611 (B) recorded or photographed voyeurism under Section 76-12-307; or
- 22612 (C) distribution of images obtained through voyeurism under Section 76-12-308;
- 22613 (xxx) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208;
- 22614 or
- 22615 (xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this
- 22616 Subsection (19)(a);
- 22617 (b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to
- 22618 commit a crime in another jurisdiction, including a state, federal, or military court,
- 22619 that is substantially equivalent to the offenses listed in Subsection (19)(a); and
- 22620 (ii)(A) who is a Utah resident; or
- 22621 (B) who is not a Utah resident but is in this state for a total of 10 days in a
- 22622 12-month period, regardless of whether the offender intends to permanently
- 22623 reside in this state;
- 22624 (c)(i)(A) who is required to register as a sex offender in another jurisdiction of
- 22625 original conviction;
- 22626 (B) who is required to register as a sex offender by a state, federal, or military

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- 22627 court; or
- 22628 (C) who would be required to register as a sex offender if residing in the
- 22629 jurisdiction of the original conviction regardless of the date of the conviction or
- 22630 a previous registration requirement; and
- 22631 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of
- 22632 whether the offender intends to permanently reside in this state;
- 22633 (d)(i)(A) who is a nonresident regularly employed or working in this state; or
- 22634 (B) who is a student in this state; and
- 22635 (ii)(A) who was convicted of one or more offenses listed in Subsection (19)(a) or
- 22636 a substantially equivalent offense in another jurisdiction; or
- 22637 (B) who is required to register in the individual's jurisdiction of residence based
- 22638 on a conviction for an offense that is not substantially equivalent to an offense
- 22639 listed in Subsection (19)(a);
- 22640 (e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of
- 22641 one or more offenses listed in Subsection (19)(a); or
- 22642 (f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 22643 Subsection (19)(a); and
- 22644 (ii) who has been committed to the division for secure care, as defined in Section
- 22645 80-1-102, for that offense if:
- 22646 (A) the individual remains in the division's custody until 30 days before the
- 22647 individual's 21st birthday;
- 22648 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 22649 under Section 80-6-605 and the individual remains in the division's custody
- 22650 until 30 days before the individual's 25th birthday; or
- 22651 (C) the individual is moved from the division's custody to the custody of the
- 22652 department before expiration of the division's jurisdiction over the individual.
- 22653 (20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
- 22654 Under the Influence and Reckless Driving.
- 22655 (21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in
- 22656 any jurisdiction.
- 22657 Section 501. Section **77-41-106** is amended to read:

- 22658 **77-41-106 . Offenses requiring lifetime registration.**
- 22659 Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime
- 22660 registration are:
- 22661 (1) an offense listed in Subsection 77-41-102(1), (11), or (19) if, at the time of the
- 22662 conviction for the offense, the offender has previously been convicted of an offense
- 22663 listed in Subsection 77-41-102(1), (11), or (19) or has previously been required to
- 22664 register as a sex offender, kidnap offender, or child abuse offender for an offense
- 22665 committed as a juvenile;
- 22666 (2) a conviction for a following offense, including attempting, soliciting, or conspiring to
- 22667 commit a felony of:
- 22668 (a) child kidnapping under Section 76-5-301.1, except if the offender is a natural parent
- 22669 of the victim;
- 22670 (b) rape under Section 76-5-402;
- 22671 (c) rape of a child under Section 76-5-402.1;
- 22672 (d) object rape under Section 76-5-402.2;
- 22673 (e) object rape of a child under Section 76-5-402.3;
- 22674 (f) sodomy on a child under Section 76-5-403.1;
- 22675 (g) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 22676 (h) aggravated sexual assault under Section 76-5-405;
- 22677 (3) human trafficking for sexual exploitation under Section 76-5-308.1;
- 22678 (4) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);
- 22679 (5) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 22680 (6) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;
- 22681 (7) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent
- 22682 of the victim;
- 22683 (8) forcible sodomy under Section 76-5-403;
- 22684 (9) sexual abuse of a child under Section 76-5-404.1;
- 22685 (10) sexual exploitation of a minor under Section 76-5b-201;
- 22686 (11) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 22687 (12) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
- 22688 (13) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208, on or

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- 22689 after May 10, 2011; or
- 22690 (14) a felony violation of enticing a minor under Section [~~76-4-401~~] 76-5-417 if the offender
- 22691 enticed the minor to engage in sexual activity that is one of the offenses described in
- 22692 Subsections (2) through (13).
- 22693 Section 502. Section **77-41-112** is amended to read:
- 22694 **77-41-112 . Removal from registry -- Requirements -- Procedure.**
- 22695 (1) An offender who is required to register with the Sex, Kidnap, and Child Abuse Offender
- 22696 Registry may petition the court for an order removing the offender from the Sex,
- 22697 Kidnap, and Child Abuse Offender Registry if:
- 22698 (a)(i) the offender was convicted of an offense described in Subsection (2);
- 22699 (ii) at least five years have passed after the day on which the offender's sentence for
- 22700 the offense terminated;
- 22701 (iii) the offense is the only offense for which the offender was required to register;
- 22702 (iv) the offender has not been convicted of another offense, excluding a traffic
- 22703 offense, since the day on which the offender was convicted of the offense for
- 22704 which the offender is required to register, as evidenced by a certificate of
- 22705 eligibility issued by the bureau;
- 22706 (v) the offender successfully completed all treatment ordered by the court or the
- 22707 Board of Pardons and Parole relating to the offense; and
- 22708 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
- 22709 and Parole relating to the offense;
- 22710 (b)(i) the offender is required to register in accordance with Subsection 77-41-105
- 22711 (3)(a);
- 22712 (ii) at least 10 years have passed after the later of:
- 22713 (A) the day on which the offender was placed on probation;
- 22714 (B) the day on which the offender was released from incarceration to parole;
- 22715 (C) the day on which the offender's sentence was terminated without parole;
- 22716 (D) the day on which the offender entered a community-based residential
- 22717 program; or
- 22718 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
- 22719 custody of the offender was terminated;

- 22720 (iii) the offender has not been convicted of another offense that is a class A
22721 misdemeanor, felony, or capital felony within the most recent 10-year period after
22722 the date described in Subsection (1)(b)(ii), as evidenced by a certificate of
22723 eligibility issued by the bureau;
- 22724 (iv) the offender successfully completed all treatment ordered by the court or the
22725 Board of Pardons and Parole relating to the offense; and
- 22726 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
22727 and Parole relating to the offense; or
- 22728 (c)(i) the offender is required to register in accordance with Subsection 77-41-105
22729 (3)(c);
- 22730 (ii) at least 20 years have passed after the later of:
- 22731 (A) the day on which the offender was placed on probation;
- 22732 (B) the day on which the offender was released from incarceration to parole;
- 22733 (C) the day on which the offender's sentence was terminated without parole;
- 22734 (D) the day on which the offender entered a community-based residential
22735 program; or
- 22736 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
22737 custody of the offender was terminated;
- 22738 (iii) the offender has not been convicted of another offense that is a class A
22739 misdemeanor, felony, or capital felony within the most recent 20-year period after
22740 the date described in Subsection (1)(c)(ii), as evidenced by a certificate of
22741 eligibility issued by the bureau;
- 22742 (iv) the offender completed all treatment ordered by the court or the Board of
22743 Pardons and Parole relating to the offense;
- 22744 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
22745 and Parole relating to the offense; and
- 22746 (vi) the offender submits to an evidence-based risk assessment to the court, with the
22747 offender's petition, that:
- 22748 (A) meets the standards for the current risk assessment, score, and risk level
22749 required by the Board of Pardons and Parole for parole termination requests;
- 22750 (B) is completed within the six months before the date on which the petition is

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- 22751 filed; and
- 22752 (C) describes the evidence-based risk assessment of the current level of risk to the
- 22753 safety of the public posed by the offender.
- 22754 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 22755 (a) enticing a minor under Section ~~[76-4-401]~~ 76-5-417, if the offense is a class A
- 22756 misdemeanor;
- 22757 (b) kidnapping under Section 76-5-301;
- 22758 (c) unlawful detention under Section 76-5-304, if the conviction of violating Section
- 22759 76-5-304 is the only conviction for which the offender is required to register;
- 22760 (d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the
- 22761 offense, the offender is not more than 10 years older than the victim;
- 22762 (e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
- 22763 offender is not more than 10 years older than the victim;
- 22764 (f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at
- 22765 the time of the offense, the offender is not more than 15 years older than the victim;
- 22766 (g) voyeurism under Section ~~[76-9-702.7]~~ 76-12-306 or recorded or photographed
- 22767 voyeurism under Section 76-12-307, if the offense is a class A misdemeanor; or
- 22768 (h) an offense for which an individual is required to register under Subsection 77-41-102
- 22769 (1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense
- 22770 described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).
- 22771 (3)(a)(i) An offender seeking removal from the Sex, Kidnap, and Child Abuse
- 22772 Offender Registry under this section shall apply for a certificate of eligibility from
- 22773 the bureau.
- 22774 (ii) An offender who intentionally or knowingly provides false or misleading
- 22775 information to the bureau when applying for a certificate of eligibility is guilty of
- 22776 a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 22777 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a
- 22778 certificate of eligibility to an offender who provides false information on an
- 22779 application.
- 22780 (b)(i) The bureau shall:
- 22781 (A) perform a check of records of governmental agencies, including national

- 22782 criminal databases, to determine whether an offender is eligible to receive a
22783 certificate of eligibility; and
- 22784 (B) determine whether the offender meets the requirements described in
22785 Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or
22786 (c)(v).
- 22787 (ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c),
22788 the bureau shall issue a certificate of eligibility to the offender, which is valid for a
22789 period of 90 days after the day on which the bureau issues the certificate.
- 22790 (4)(a)(i) The bureau shall charge application and issuance fees for a certificate of
22791 eligibility in accordance with the process in Section 63J-1-504.
- 22792 (ii) The application fee shall be paid at the time the offender submits an application
22793 for a certificate of eligibility to the bureau.
- 22794 (iii) If the bureau determines that the issuance of a certificate of eligibility is
22795 appropriate, the offender will be charged an additional fee for the issuance of a
22796 certificate of eligibility.
- 22797 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
22798 as a dedicated credit by the department to cover the costs incurred in determining
22799 eligibility.
- 22800 (5)(a) The offender shall file the petition, including original information, the court
22801 docket, the certificate of eligibility from the bureau, and the document from the
22802 department described in Subsection (3)(b)(iv) with the court, and deliver a copy of
22803 the petition to the office of the prosecutor.
- 22804 (b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse
22805 Offender Registry, the office of the prosecutor shall provide notice of the petition by
22806 first-class mail to the victim at the most recent address of record on file or, if the
22807 victim is still a minor under 18 years old, to the parent or guardian of the victim.
- 22808 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
22809 that the victim has a right to object to the removal of the offender from the registry,
22810 and provide instructions for registering an objection with the court.
- 22811 (d) The office of the prosecutor shall provide the following, if available, to the court
22812 within 30 days after the day on which the office receives the petition:

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- 22813 (i) presentencing report;
- 22814 (ii) an evaluation done as part of sentencing; and
- 22815 (iii) other information the office of the prosecutor determines the court should
- 22816 consider.
- 22817 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
- 22818 old, may respond to the petition by filing a recommendation or objection with the
- 22819 court within 45 days after the day on which the petition is mailed to the victim.
- 22820 (6)(a) The court shall:
- 22821 (i) review the petition and all documents submitted with the petition; and
- 22822 (ii) hold a hearing if requested by the prosecutor or the victim.
- 22823 (b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the
- 22824 petition and order removal of the offender from the registry if the court determines
- 22825 that the offender has met the requirements described in Subsection (1)(a) or (b)
- 22826 and removal is not contrary to the interests of the public.
- 22827 (ii) When considering a petition filed under Subsection (1)(c), the court shall
- 22828 determine whether the offender has demonstrated, by clear and convincing
- 22829 evidence, that the offender is rehabilitated and does not pose a threat to the safety
- 22830 of the public.
- 22831 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
- 22832 consider:
- 22833 (A) the nature and degree of violence involved in the offense that requires
- 22834 registration;
- 22835 (B) the age and number of victims of the offense that requires registration;
- 22836 (C) the age of the offender at the time of the offense that requires registration;
- 22837 (D) the offender's performance while on supervision for the offense that requires
- 22838 registration;
- 22839 (E) the offender's stability in employment and housing;
- 22840 (F) the offender's community and personal support system;
- 22841 (G) other criminal and relevant noncriminal behavior of the offender both before
- 22842 and after the offense that requires registration;
- 22843 (H) the level of risk posed by the offender as evidenced by the evidence-based risk

- 22844 assessment described in Subsection (1)(c)(vi); and
22845 (I) any other relevant factors.
- 22846 (c) In determining whether removal is contrary to the interests of the public, the court
22847 may not consider removal unless the offender has substantially complied with all
22848 registration requirements under this chapter at all times.
- 22849 (d) If the court grants the petition, the court shall forward a copy of the order directing
22850 removal of the offender from the registry to the department and the office of the
22851 prosecutor.
- 22852 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
22853 offender may not submit another petition for three years.
- 22854 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
22855 petition, the offender may not submit another petition for eight years.
- 22856 (7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender
22857 Registry office in the department of the court's decision within three days after the day
22858 on which the court issues the court's decision in the same manner described in
22859 Subsection (5).
- 22860 (8) Except as provided in Subsection (9), an offender required to register under Subsection
22861 77-41-105(3)(b) may petition for early removal from the registry under Subsection
22862 (1)(b) if the offender:
- 22863 (a) meets the requirements of Subsections (1)(b)(ii) through (v);
22864 (b) has resided in this state for at least 183 days in a year for two consecutive years; and
22865 (c) intends to primarily reside in this state.
- 22866 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition
22867 for early removal from the registry under Subsection (1)(c) if:
- 22868 (a) the offense requiring the offender to register is substantially equivalent to an offense
22869 listed in Section 77-41-106;
22870 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);
22871 (c) the offender has resided in this state for at least 183 days in a year for two
22872 consecutive years; and
22873 (d) the offender intends to primarily reside in this state.
- 22874 Section 503. Section **77-41-113** is amended to read:

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- 22875 **77-41-113 . Removal for offenses or convictions for which registration is no**
22876 **longer required.**
- 22877 (1) The department shall automatically remove an individual who is currently on the Sex,
22878 Kidnap, and Child Abuse Offender Registry because of a conviction if:
- 22879 (a) the only offense or offenses for which the individual is on the registry are listed in
22880 Subsection (2); or
- 22881 (b) the department receives a formal notification or order from the court or the Board of
22882 Pardons and Parole that the conviction for the offense or offenses for which the
22883 individual is on the registry have been reversed, vacated, or pardoned.
- 22884 (2) The offenses described in Subsection (1)(a) are:
- 22885 (a) a class B or class C misdemeanor for enticing a minor under Section [~~76-4-401~~
22886 76-5-417];
- 22887 (b) kidnapping under Subsection 76-5-301(2)(a) or (b);
- 22888 (c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of
22889 the child victim;
- 22890 (d) unlawful detention under Section 76-5-304;
- 22891 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B
22892 misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or
- 22893 (f) sodomy, but not forcible sodomy, under Section 76-5-403.
- 22894 (3)(a) The department shall notify an individual who has been removed from the
22895 registry in accordance with Subsection (1).
- 22896 (b) The notice described in Subsection (3)(a) shall include a statement that the individual
22897 is no longer required to register as a sex offender or kidnap offender.
- 22898 (4) An individual who is currently on the Sex, Kidnap, and Child Abuse Offender Registry
22899 may submit a request to the department to be removed from the registry if the individual
22900 believes that the individual qualifies for removal under this section.
- 22901 (5) The department, upon receipt of a request for removal from the registry shall:
- 22902 (a) check the registry for the individual's current status;
- 22903 (b) determine whether the individual qualifies for removal based upon this section; and
- 22904 (c) notify the individual in writing of the department's determination and whether the
22905 individual:

- 22906 (i) qualifies for removal from the registry; or
22907 (ii) does not qualify for removal.
- 22908 (6) If the department determines that the individual qualifies for removal from the registry,
22909 the department shall remove the offender from the registry.
- 22910 (7) If the department determines that the individual does not qualify for removal from the
22911 registry, the department shall provide an explanation in writing for the department's
22912 determination. The department's determination is final and not subject to administrative
22913 review.
- 22914 (8) Neither the department nor an employee of the department may be civilly liable for a
22915 determination made in good faith in accordance with this section.
- 22916 (9)(a) The department shall provide a response to a request for removal within 30 days
22917 of receipt of the request.
- 22918 (b) If the response under Subsection (9)(a) cannot be provided within 30 days, the
22919 department shall notify the individual that the response may be delayed up to 30
22920 additional days.

22921 Section 504. Section **77-42-105** is amended to read:

22922 **77-42-105 . Registerable offenses.**

22923 A person shall be required to register with the Office of the Attorney General for a
22924 conviction of any of the following offenses as a second degree felony:

- 22925 (1) Section 61-1-1 or Section 61-1-2, securities fraud;
22926 (2) Section 76-6-405, theft by deception;
22927 (3) Section 76-6-513, unlawful dealing of property by fiduciary;
22928 (4) Section 76-6-521, insurance fraud;
22929 (5) Section 76-6-1203, mortgage fraud;
22930 (6) Section [76-10-1801] 76-6-525, communications fraud;
22931 (7) Section [76-10-1903] 76-9-1602, money laundering;
22932 (8) Section 76-9-1603, accepting the proceeds of unlawful activity; and
22933 [~~8~~] (9) Section [76-10-1603;] 76-17-407, prohibited conduct concerning a pattern of
22934 unlawful activity, if at least one of the unlawful activities used to establish the pattern of
22935 unlawful activity is an offense listed in Subsections (1) through (7).

22936 Section 505. Section **78A-2-203** is amended to read:

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22937 **78A-2-203 . Rules -- Right to make -- Limitation -- Security.**

22938 (1) Every court of record may make rules, not inconsistent with law, for its own
22939 government and the government of its officers; but such rules must neither impose any
22940 tax or charge upon any legal proceeding nor give any allowance to any officer for
22941 service.

22942 (2)(a) The judicial council may provide, through the rules of judicial administration, for
22943 security in or about a courthouse or courtroom, or establish a secure area as
22944 prescribed in Section 76-8-311.1.

22945 (b)(i) If the council establishes a secure area under Subsection (2)(a), it shall provide
22946 a secure firearms storage area on site so that persons with lawfully carried
22947 firearms may store them while they are in the secure area.

22948 (ii) The entity operating the facility with the secure area shall be responsible for the
22949 firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).

22950 (iii) The entity may not charge a fee to individuals for storage of their firearms under
22951 Subsection (2)(b)(i).

22952 (3)(a) Unless authorized by the rules of judicial administration, any person who
22953 knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon
22954 within a secure area established by the judicial council under this section is guilty of
22955 a third degree felony.

22956 (b) Any person is guilty of violating Section [~~76-10-306~~] 76-15-210 who transports,
22957 possesses, distributes, or sells an explosive, chemical, or incendiary device, as
22958 defined by Section [~~76-10-306~~] 76-15-210, within a secure area, established by the
22959 Judicial Council under this section.

22960 Section 506. Section **78A-5a-103** is amended to read:

22961 **78A-5a-103 . Concurrent jurisdiction of the Business and Chancery Court --**
22962 **Exceptions.**

22963 (1) The Business and Chancery Court has jurisdiction, concurrent with the district court,
22964 over an action:

22965 (a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief; and

22966 (b)(i) with a claim arising from:

22967 (A) a breach of a contract;

- 22968 (B) a breach of a fiduciary duty;
- 22969 (C) a dispute over the internal affairs or governance of a business organization;
- 22970 (D) the sale, merger, or dissolution of a business organization;
- 22971 (E) the sale of substantially all of the assets of a business organization;
- 22972 (F) the receivership or liquidation of a business organization;
- 22973 (G) a dispute over liability or indemnity between or among owners of the same
- 22974 business organization;
- 22975 (H) a dispute over liability or indemnity of an officer or owner of a business
- 22976 organization;
- 22977 (I) a tortious or unlawful act committed against a business organization, including
- 22978 an act of unfair competition, tortious interference, or misrepresentation or fraud;
- 22979 (J) a dispute between a business organization and an insurer regarding a
- 22980 commercial insurance policy;
- 22981 (K) a contract or transaction governed by Title 70A, Uniform Commercial Code;
- 22982 (L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform
- 22983 Trade Secrets Act;
- 22984 (M) the misappropriation of intellectual property;
- 22985 (N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or
- 22986 confidentiality agreement, regardless of whether the agreement is oral or
- 22987 written;
- 22988 (O) a relationship between a franchisor and a franchisee;
- 22989 (P) the purchase or sale of a security or an allegation of security fraud;
- 22990 (Q) a dispute over a blockchain, blockchain technology, or a decentralized
- 22991 autonomous organization;
- 22992 (R) a violation of [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~] Title 76,
- 22993 Chapter 16, Part 5, Antitrust Offenses; or
- 22994 (S) a contract with a forum selection clause for a chancery, business, or
- 22995 commercial court of this state or any other state;
- 22996 (ii) with a malpractice claim concerning services that a professional provided to a
- 22997 business organization;
- 22998 (iii) that is a shareholder derivative action; or

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- 22999 (iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4,
23000 Declaratory Judgments.
- 23001 (2) Except as provided in Subsection (3), the Business and Chancery Court may exercise
23002 supplemental jurisdiction over any claim in an action that is within the jurisdiction of the
23003 Business and Chancery Court under Subsection (1) if the claim arises from the same set
23004 of facts or circumstances as the action.
- 23005 (3) The Business and Chancery Court may not exercise supplemental jurisdiction over:
23006 (a) any claim arising from:
- 23007 (i) a consumer contract;
- 23008 (ii) a personal injury, including a personal injury relating to or arising out of health
23009 care rendered or which should have been rendered by the health care provider;
- 23010 (iii) a violation of Title 13, Chapter 7, Civil Rights;
- 23011 (iv) Title 20A, Election Code;
- 23012 (v) Title 63G, Chapter 4, Administrative Procedures Act;
- 23013 (vi) Title 78B, Chapter 6, Part 1, Utah Adoption Act;
- 23014 (vii) Title 78B, Chapter 6, Part 5, Eminent Domain;
- 23015 (viii) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is
23016 brought against a commercial tenant;
- 23017 (ix) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
- 23018 (x) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement
23019 Act;
- 23020 (xi) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;
- 23021 (xii) Title 78B, Chapter 15, Utah Uniform Parentage Act;
- 23022 (xiii) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act;
- 23023 (xiv) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and
23024 Visitation Act;
- 23025 (xv) Title 81, Utah Domestic Relations Code; or
- 23026 (b) any action in which a governmental entity is a party; or
- 23027 (c) any criminal matter, unless the criminal matter is an act or omission of contempt that
23028 occurs in an action before the Business and Chancery Court.
- 23029 (4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise

- 23030 supplemental jurisdiction over a claim that is barred under Subsection (3):
- 23031 (a) if the claim is a compulsory counterclaim;
- 23032 (b) if there would be a material risk of inconsistent outcomes if the claim were tried in a
- 23033 separate action; or
- 23034 (c) solely to resolve a request for a provisional remedy related to the claim before the
- 23035 Business and Chancery Court transfers the claim as described in Subsection (5).
- 23036 (5) If an action contains a claim for which the Business and Chancery Court may not
- 23037 exercise supplemental jurisdiction under this section, the Business and Chancery Court
- 23038 shall bifurcate the action and transfer any claim for which the Business and Chancery
- 23039 Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary
- 23040 and Judicial Administration.
- 23041 (6) Before the Business and Chancery Court transfers a claim as described in Subsection
- 23042 (5), the Business and Chancery Court may resolve:
- 23043 (a) all claims for which the Business and Chancery Court has jurisdiction; and
- 23044 (b) any request for a provisional remedy related to a claim that is being transferred.
- 23045 Section 507. Section **78B-4-511** is amended to read:
- 23046 **78B-4-511 . Regulation of firearms reserved to state -- Lawsuits prohibited.**
- 23047 (1) As prescribed by Section [~~76-10-500~~] 53-5a-102, all authority to regulate firearms is
- 23048 reserved to the state through the Legislature.
- 23049 (2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells
- 23050 firearms or ammunition to the public may not be sued by the state or any of its political
- 23051 subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or
- 23052 ammunition, unless the suit is based on the breach of a contract or warranty for a firearm
- 23053 or ammunition purchased by the state or political subdivision.
- 23054 Section 508. Section **78B-5-505** is amended to read:
- 23055 **78B-5-505 . Property exempt from execution.**
- 23056 (1)(a) An individual is entitled to exemption of the following property:
- 23057 (i) a burial plot for the individual and the individual's family;
- 23058 (ii) health aids reasonably necessary to enable the individual or a dependent to work
- 23059 or sustain health;
- 23060 (iii) benefits that the individual or the individual's dependent have received or are

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- 23061 entitled to receive from any source because of:
- 23062 (A) disability;
- 23063 (B) illness; or
- 23064 (C) unemployment;
- 23065 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that
- 23066 the benefits are used by an individual or the individual's dependent to pay for that
- 23067 care;
- 23068 (v) veterans benefits;
- 23069 (vi) money or property received, and rights to receive money or property for child
- 23070 support;
- 23071 (vii) money or property received, and rights to receive money or property for alimony
- 23072 or separate maintenance, to the extent reasonably necessary for the support of the
- 23073 individual and the individual's dependents;
- 23074 (viii)(A) one:
- 23075 (I) clothes washer and dryer;
- 23076 (II) refrigerator;
- 23077 (III) freezer;
- 23078 (IV) stove;
- 23079 (V) microwave oven; and
- 23080 (VI) sewing machine;
- 23081 (B) all carpets in use;
- 23082 (C) provisions sufficient for 12 months actually provided for individual or family
- 23083 use;
- 23084 (D) all wearing apparel of every individual and dependent, not including jewelry
- 23085 or furs; and
- 23086 (E) all beds and bedding for every individual or dependent;
- 23087 (ix) except for works of art held by the debtor as part of a trade or business, works of
- 23088 art:
- 23089 (A) depicting the debtor or the debtor and the debtor's resident family; or
- 23090 (B) produced by the debtor or the debtor and the debtor's resident family;
- 23091 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a

- 23092 result of bodily injury of the individual or of the wrongful death or bodily injury
23093 of another individual of whom the individual was or is a dependent to the extent
23094 that those proceeds are compensatory;
- 23095 (xi) the proceeds or benefits of any life insurance contracts or policies paid or
23096 payable to the debtor or any trust of which the debtor is a beneficiary upon the
23097 death of the spouse or children of the debtor, provided that the contract or policy
23098 has been owned by the debtor for a continuous unexpired period of one year;
- 23099 (xii) the proceeds or benefits of any life insurance contracts or policies paid or
23100 payable to the spouse or children of the debtor or any trust of which the spouse or
23101 children are beneficiaries upon the death of the debtor, provided that the contract
23102 or policy has been in existence for a continuous unexpired period of one year;
- 23103 (xiii) proceeds and avails of any unmatured life insurance contracts owned by the
23104 debtor or any revocable grantor trust created by the debtor, excluding any
23105 payments made on the contract during the one year immediately preceding a
23106 creditor's levy or execution;
- 23107 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in
23108 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the
23109 individual as an owner, participant, or beneficiary from or an interest of the
23110 individual as an owner, participant, or beneficiary in a fund or account, including
23111 an inherited fund or account, in a retirement plan or arrangement that is described
23112 in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e),
23113 or 457, Internal Revenue Code, including an owner's, a participant's, or a
23114 beneficiary's interest that arises by inheritance, designation, appointment, or
23115 otherwise;
- 23116 (xv) the interest of or any money or other assets payable to an alternate payee under a
23117 qualified domestic relations order as those terms are defined in Section 414(p),
23118 Internal Revenue Code;
- 23119 (xvi) unpaid earnings of the household of the filing individual due as of the date of
23120 the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual
23121 median family income for the household size of the filing individual as
23122 determined by the Utah State Annual Median Family Income reported by the

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23123 United States Census Bureau and as adjusted based upon the Consumer Price
23124 Index for All Urban Consumers for an individual whose unpaid earnings are paid
23125 more often than once a month or, if unpaid earnings are not paid more often than
23126 once a month, then in the amount of 1/12 of the Utah State annual median family
23127 income for the household size of the individual as determined by the Utah State
23128 Annual Median Family Income reported by the United States Census Bureau and
23129 as adjusted based upon the Consumer Price Index for All Urban Consumers;
23130 (xvii) except for curio or relic firearms, as defined in Section [~~76-10-501~~] 76-11-101,
23131 any three of the following:
23132 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;
23133 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and
23134 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000
23135 rounds; and
23136 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,
23137 more than 18 months before the day on which the individual files a petition for
23138 bankruptcy or an action is filed by a creditor against the individual, as applicable,
23139 in all tax-advantaged accounts for saving for higher education costs on behalf of a
23140 particular individual that meets the requirements of Section 529, Internal Revenue
23141 Code.
23142 (b)(i) Any money, asset, or other interest in a fund or account that is exempt from a
23143 claim of a creditor of the owner, beneficiary, or participant under Subsection
23144 (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or
23145 beneficiary's death by reason of a direct transfer or eligible rollover to an inherited
23146 individual retirement account as defined in Section 408(d)(3), Internal Revenue
23147 Code.
23148 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement
23149 accounts without regard to the date on which the account was created.
23150 (c)(i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
23151 (A) an alternate payee under a qualified domestic relations order, as those terms
23152 are defined in Section 414(p), Internal Revenue Code; or
23153 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one

23154 year before the debtor files for bankruptcy, except amounts directly rolled over
23155 from other funds that are exempt from attachment under this section.

23156 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the
23157 secured creditor's interest in proceeds and avails of any matured or unmatured life
23158 insurance contract assigned or pledged as collateral for repayment of a loan or
23159 other legal obligation.

23160 (2)(a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans
23161 benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim
23162 who is a child if the person receiving the benefits has been convicted of a felony sex
23163 offense against the victim and ordered by the sentencing court to pay restitution to
23164 the victim.

23165 (b) The exemption from execution under this Subsection (2) shall be reinstated upon
23166 payment of the restitution in full.

23167 (3) The exemptions under this section do not limit items that may be claimed as exempt
23168 under Section 78B-5-506.

23169 (4)(a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii),
23170 (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil
23171 judgment of restitution for an individual who is found in contempt under Section
23172 78B-6-317.

23173 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if
23174 the individual's dependent received, or is entitled to receive, the benefits.

23175 Section 509. Section **78B-6-111** is amended to read:

23176 **78B-6-111 . Criminal sexual offenses.**

23177 An unmarried biological father is not entitled to notice of an adoption proceeding,
23178 nor is the consent of an unmarried biological father required in connection with an
23179 adoption proceeding, in cases where it is shown that the child who is the subject of
23180 the proceeding was conceived as a result of conduct that constitutes a sexual offense
23181 under Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417,
23182 76-5-418, 76-5-419, or 76-5-420, or under the laws of the state where the child was
23183 conceived, regardless of whether the unmarried biological father is formally charged
23184 with or convicted of a criminal offense.

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- 23185 Section 510. Section **78B-6-1101** is amended to read:
- 23186 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**
- 23187 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
23188 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
23189 of life or property. A nuisance may be the subject of an action.
- 23190 (2) A nuisance may include the following:
- 23191 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- 23192 (b) gambling as provided in [~~Title 76, Chapter 10, Part 11, Gambling~~] Title 76, Chapter
23193 9, Part 14, Gambling;
- 23194 (c) criminal activity committed in concert with three or more persons as provided in
23195 Section 76-3-203.1;
- 23196 (d) criminal activity committed for the benefit of, at the direction of, or in association
23197 with any criminal street gang as defined in Section 76-9-802;
- 23198 (e) criminal activity committed to gain recognition, acceptance, membership, or
23199 increased status with a criminal street gang as defined in Section 76-9-802;
- 23200 (f) party houses that frequently create conditions defined in Subsection (1); and
- 23201 (g) prostitution as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~] Title 76,
23202 Chapter 5d, Prostitution.
- 23203 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
23204 person rents, leases, or owns, from another residential or commercial unit and the smoke:
23205 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
23206 (b) creates any of the conditions under Subsection (1).
- 23207 (4) Subsection (3) does not apply to:
- 23208 (a) a residential rental unit available for temporary rental, such as for a vacation, or
23209 available for only 30 or fewer days at a time; or
- 23210 (b) a hotel or motel room.
- 23211 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
23212 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
23213 57-19-2.
- 23214 (6) An action may be brought by a person whose property is injuriously affected, or whose
23215 personal enjoyment is lessened by the nuisance.

23216 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
23217 44, Agricultural Operations Nuisances Act.

23218 (8) "Critical infrastructure materials operations" means the same as that term is defined in
23219 Section 10-9a-901.

23220 (9) "Manufacturing facility" means a factory, plant, or other facility including its
23221 appurtenances, where the form of raw materials, processed materials, commodities, or
23222 other physical objects is converted or otherwise changed into other materials,
23223 commodities, or physical objects or where such materials, commodities, or physical
23224 objects are combined to form a new material, commodity, or physical object.

23225 Section 511. Section **78B-6-1103** is amended to read:

23226 **78B-6-1103 . Manufacturing facility in operation over three years -- Limited**
23227 **application of restrictions.**

23228 (1) Notwithstanding Sections ~~[76-10-803]~~ 76-9-1301 and 78B-6-1101, a manufacturing
23229 facility or operation may not be considered a nuisance, private or public, by virtue of
23230 any changed circumstance in land uses near the facility after it has been in operation for
23231 more than three years if the manufacturing facility or operation was not a nuisance at the
23232 time it began operation. The manufacturing facility may not increase the condition
23233 asserted to be a nuisance. The provisions of this Subsection (1) do not apply if a
23234 nuisance results from the negligent or improper operation of a manufacturing facility.

23235 (2) The provisions of Subsection (1) may not affect or defeat the right of any person to
23236 recover damages for any injuries or damage sustained because of any pollution of, or
23237 change in the condition of, the waters of any stream or the overflow of the lands of any
23238 person.

23239 (3) Any and all ordinances now or in the future adopted by any county or municipal
23240 corporation in which a manufacturing facility is located and which makes its operation a
23241 nuisance or providing for an abatement as a nuisance in the circumstances set forth in
23242 this section are null and void. The provisions of this Subsection (3) may not apply
23243 whenever a nuisance results from the negligent or improper operation of a
23244 manufacturing facility.

23245 Section 512. Section **78B-6-1107** is amended to read:

23246 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**

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23247 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**

- 23248 (1) Every building or place is a nuisance where:
- 23249 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
- 23250 acquisition occurs of any controlled substance, precursor, or analog specified in Title
- 23251 58, Chapter 37, Utah Controlled Substances Act;
- 23252 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in [~~Title~~
- 23253 ~~76, Chapter 10, Part 11, Gambling~~] Title 76, Chapter 9, Part 14, Gambling, which
- 23254 creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);
- 23255 (c) criminal activity is committed in concert with three or more persons as provided in
- 23256 Section 76-3-203.1;
- 23257 (d) criminal activity is committed for the benefit of, at the direction of, or in association
- 23258 with any criminal street gang as defined in Section 76-9-802;
- 23259 (e) criminal activity is committed to gain recognition, acceptance, membership, or
- 23260 increased status with a criminal street gang as defined in Section 76-9-802;
- 23261 (f) parties occur frequently which create the conditions of a nuisance as defined in
- 23262 Subsection 78B-6-1101(1);
- 23263 (g) prostitution or promotion of prostitution is regularly carried on by one or more
- 23264 persons as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~] Title 76, Chapter
- 23265 5d, Prostitution; and
- 23266 (h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons,
- 23267 occurs on the premises.
- 23268 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
- 23269 defendant is lawfully entitled to possession of a controlled substance.
- 23270 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
- 23271 nuisance as defined in Subsection (1).
- 23272 Section 513. Section **78B-6-1701** is amended to read:
- 23273 **78B-6-1701 . Cause of action for identity theft.**
- 23274 (1) A petitioner who has been injured by a violation of Section 76-6-1102, Identity Fraud,
- 23275 or Section [~~76-10-1801~~] 76-6-525, Communications Fraud, may recover from the
- 23276 perpetrator:
- 23277 (a) compensatory damages in the amount of \$1,000 or up to three times the amount of

- 23278 actual damages, whichever is greater;
- 23279 (b) attorney fees; and
- 23280 (c) court costs.
- 23281 (2) Actual damages may include:
- 23282 (a) replacement or reissuance costs for checks and any personal identification documents;
- 23283 (b) the value of the petitioner's time spent:
- 23284 (i) repairing their credit history or rating; and
- 23285 (ii) attending civil or administrative hearings necessary to resolve any debt, lien, or
- 23286 other obligation arising from the offense;
- 23287 (c) lost wages; and
- 23288 (d) any other verifiable costs the court may choose to include.
- 23289 (3) The court may award punitive damages in addition to compensatory damages.
- 23290 (4) A perpetrator who is not tried or found not guilty of a violation of Section 76-6-1102,
- 23291 Identity Fraud, or Section [~~76-10-1801~~] 76-6-525, Communications Fraud, may be found
- 23292 liable under this section if the court finds by a preponderance of the evidence that the
- 23293 perpetrator participated in a violation and the petitioner was injured as a result.
- 23294 (5)(a) A perpetrator who is found guilty of a violation of Section 76-6-1102, Identity
- 23295 Fraud, or Section [~~76-10-1801~~] 76-6-525, Communications Fraud, shall be found
- 23296 liable under this section.
- 23297 (b) If restitution was ordered in the criminal action, the amount ordered shall be
- 23298 deducted from any damages awarded under this section.
- 23299 Section 514. Section **78B-6-2102** is amended to read:
- 23300 **78B-6-2102 . Exemptions.**
- 23301 (1) If the conditions of Subsection (2) are met, this part does not apply to:
- 23302 (a) the following, as defined in the Communications Act of 1934, as amended:
- 23303 (i) an interactive computer service;
- 23304 (ii) a telecommunications service, information service, or mobile service, including a
- 23305 commercial mobile service; or
- 23306 (iii) a multichannel video programming distributor;
- 23307 (b) an Internet service provider;
- 23308 (c) a provider of an electronic communications service;

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- 23309 (d) a distributor of Internet-based video services;
- 23310 (e) a [host] hosting company as defined in Section [~~76-10-1230~~] 76-5c-401; or
- 23311 (f) a distributor of electronic or computerized game software that users manipulate
- 23312 through interactive devices.
- 23313 (2) This part does not apply to an entity described in Subsection (1) if:
- 23314 (a) the distribution of pornographic material by the entity occurs only incidentally
- 23315 through the entity's function of:
- 23316 (i) transmitting or routing data from one person to another person;
- 23317 (ii) providing a connection between one person and another person; or
- 23318 (iii) providing data storage space or data caching to a person; and
- 23319 (b) the entity does not intentionally aid or abet in the distribution of the pornographic
- 23320 material.

23321 Section 515. Section **78B-6-2105** is amended to read:

23322 **78B-6-2105 . Civil action for enforcement -- Penalties.**

- 23323 (1) A person who distributes or otherwise provides pornographic material to consumers
- 23324 may not distribute any obscene material or performance as defined in Section [
- 23325 ~~76-10-1203~~] 76-5c-101 without first giving a clear and reasonable warning of the
- 23326 harmful impact of exposing minors to the material or performance.
- 23327 (2) The warning of the harm shall be prominently displayed in the following form:
- 23328 STATE OF UTAH WARNING
- 23329 Exposing minors to obscene material may damage or negatively impact minors.
- 23330 (3)(a) For print publications created after May 12, 2020, the warning in Subsection (2)
- 23331 shall be placed in clear, readable type on the cover of each publication which
- 23332 includes material as defined in Section [~~76-10-1201~~] 76-5c-101.
- 23333 (b) For digital publications:
- 23334 (i) the warning in Subsection (2) shall be displayed in searchable text format and for
- 23335 at least five seconds prior to the display of any video or each image which
- 23336 includes material as defined in Section [~~76-10-1201~~] 76-5c-101; or
- 23337 (ii) if the website complies with Subsection 78B-6-2103(3), it is not required to
- 23338 display the warning in Subsection (2) prior to each video or image contained on
- 23339 the website.

- 23340 (4) A person who violates this section shall be liable for a civil penalty not to exceed
23341 \$2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty
23342 established by law, and enjoined from further violations.
- 23343 (5) The civil penalty may be assessed and recovered in a civil action brought in any court of
23344 competent jurisdiction.
- 23345 (6) Each of the following violations shall create a separate liability per violation:
- 23346 (a) the sale or display of potentially harmful content without the warning required in
23347 Subsection (2), in accordance with Subsection (3); or
- 23348 (b) the absence of the following searchable text within the website's metadata -
23349 utahobscenitywarning.
- 23350 (7) The determination by a court as to whether a person is distributing material the state
23351 considers to be obscene material or performance as defined in Section 78B-6-1203 shall
23352 be proven by clear and convincing evidence. All other elements of proof shall be proven
23353 by a preponderance of the evidence.
- 23354 (8) The court, in ordering payment, shall specify each amount for the civil penalty, filing
23355 fees, and attorney fees.
- 23356 (9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall
23357 consider all of the following:
- 23358 (a) the nature and extent of the violation;
- 23359 (b) the number and severity of the violations;
- 23360 (c) the economic effect of the penalty on the violator;
- 23361 (d) whether the violator took good faith measures to comply with this chapter and when
23362 those measures were taken;
- 23363 (e) the willfulness of the violator's misconduct;
- 23364 (f) the deterrent effect that the imposition of the penalty would have on both the violator
23365 and the regulated community as a whole; and
- 23366 (g) any other factor that the court determines justice requires.
- 23367 (10) Actions pursuant to this section may be brought by the attorney general's office in the
23368 name of the people of the state or by a private person in accordance with Subsection (11).
- 23369 (11) A private person may bring an action in the public interest pursuant to this section if:
- 23370 (a) the person has served notice of an alleged violation of Section 78B-6-2103 on the

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- 23371 alleged violator and the attorney general's office;
- 23372 (b) the attorney general's office has not provided a letter to the noticing party within 60
- 23373 days of receipt of the notice of an alleged violation indicating that:
- 23374 (i) an action is currently being pursued or will be pursued by the attorney general's
- 23375 office regarding the violation; or
- 23376 (ii) the attorney general believes that there is no merit to the action; and
- 23377 (c) the alleged violator has not responded to the notice of alleged violation or returned
- 23378 the proof of compliance form provided in Subsection (17).
- 23379 (12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim
- 23380 that are discovered through the discovery process.
- 23381 (13) Notice of the alleged violation shall be executed by the attorney for the noticing party,
- 23382 or by the noticing party, if the noticing party is not represented by an attorney, and
- 23383 include a notice of alleged violation. The notice of alleged violation shall:
- 23384 (a) state that the person executing the notice believes that there is a violation; and
- 23385 (b) provide factual information sufficient to establish the basis for the alleged violation.
- 23386 (14) A person who serves a notice of alleged violation identified in Subsection (13) shall
- 23387 complete and provide to the alleged violator at the time the notice of alleged violation is
- 23388 served, a notice of special compliance procedure and proof of compliance form pursuant
- 23389 to Subsection (17). The person may file an action against the alleged violator, or recover
- 23390 from the alleged violator if:
- 23391 (a) the notice of alleged violation alleges that the alleged violator failed to provide a
- 23392 clear and reasonable warning as required under Subsection (1); and
- 23393 (b) within 14 days after receipt of the notice of alleged violation, the alleged violator has
- 23394 not:
- 23395 (i) corrected the alleged violation and all similar violations known to the alleged
- 23396 violator;
- 23397 (ii) agreed to pay a penalty for the alleged violation in the amount of \$500 per
- 23398 violation; and
- 23399 (iii) notified, in writing, the noticing party that the violation has been corrected.
- 23400 (15) The written notice required in Subsection (14)(b)(iii) shall be the notice of special
- 23401 compliance procedure and proof of compliance form specified in Subsection (17). The

23402 alleged violator shall deliver the civil penalty to the noticing party within 30 days of
23403 receipt of the notice of alleged violation.

23404 (16) The attorney general shall review the notice of alleged violation and may confer with
23405 the noticing party. If the attorney general believes there is no merit to the action, the
23406 attorney general shall, within 45 days of receipt of the notice of alleged violation,
23407 provide a letter to the noticing party and the alleged violator stating that the attorney
23408 general believes there is no merit to the action.

23409 (17) The notice required to be provided to an alleged violator pursuant to Subsection (14) shall
23410 be presented as follows:

23411 Date:

23412 Name of Noticing Party or attorney for Noticing Party:

23413 Address:

23414 Phone number:

23415 SPECIAL COMPLIANCE PROCEDURE

23416 PROOF OF COMPLIANCE

23417 You are receiving this form because the Noticing Party listed above has alleged that you are
23418 in violation of Utah Code Section 78B-6-2103.

23419 The Noticing Party may bring legal proceedings against you for the alleged violation
23420 checked below if:

23421 (1) you have not actually taken the corrective steps that you have certified in this form;

23422 (2) the Noticing Party has not received this form at the address shown above, accurately
23423 completed by you, postmarked within 14 days of your receiving this notice; and

23424 (3) the Noticing Party does not receive the required \$500 penalty payment for each
23425 violation alleged from you at the address shown above postmarked within 30 days of your
23426 receiving this notice.

23427 PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR
23428 THE NOTICING PARTY

23429 This notice of alleged violation is for failure to warn against an exposure to minors of
23430 materials considered harmful to minors. (provide complete description of violation, including
23431 when and where observed)

23432 Date:

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23433 Name of Noticing Party or attorney for Noticing Party:

23434 Address:

23435 Phone number:

23436 PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED
23437 REPRESENTATIVE

23438 Certification of Compliance

23439 Accurate completion of this form will demonstrate that you are now in compliance with
23440 Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and
23441 submit the form below to the Noticing Party at the address shown above, postmarked within 14
23442 days of you receiving this notice.

23443 I hereby agree to pay, within 30 days of receipt of this notice, a penalty of \$500 for each
23444 violation alleged to the Noticing Party only and certify that I have complied with by (check
23445 only one of the following):

23446 Posting a warning or warnings, and attaching a copy of that warning and a photograph
23447 accurately showing its placement on the print or digital publication.

23448 Eliminating the alleged exposure, and attaching a statement accurately describing how
23449 the alleged exposure has been eliminated.

23450 CERTIFICATION

23451 My statements on this form, and on any attachments to it, are true, complete, and correct to
23452 the best of my knowledge and belief and are made in good faith. I have carefully read the
23453 instructions to complete this form. I understand that if I make a false statement on this form, I
23454 may be subject to additional penalties under Utah Code [~~Section 76-10-1206~~] Sections
23455 76-5c-205 and 76-5c-206.

23456 Signature of alleged violator or authorized representative:

23457 Date:

23458 Name and title of signatory:

23459 (18) An alleged violator may satisfy the conditions set forth in Subsection (17) only one
23460 time for a specific violation.

23461 (19) Notwithstanding Subsection (17), the attorney general may file an action pursuant to
23462 Subsection (10) against an alleged violator. In any action, the amount of any civil
23463 penalty for a violation shall be reduced to reflect any payment made by the alleged

- 23464 violator to a private person in accordance with Subsection (17) for the same alleged
23465 violation.
- 23466 (20) Payments shall be made in accordance with this section.
- 23467 (a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the
23468 court.
- 23469 (b) A penalty paid in accordance with the special compliance procedure in Subsection
23470 (17) shall be made directly to the noticing party.
- 23471 (21) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in
23472 accordance with this section. Funds received shall be deposited into the Crime Victim
23473 Reparations Fund created in Section 63M-7-526. The penalty amount upon which the
23474 50% is calculated may not include attorney fees or costs awarded by the court.
- 23475 (a) If the penalty is paid to a noticing party in accordance with Subsection (17), the
23476 noticing party shall remit the required amount along with a copy of the Special
23477 Compliance Procedure document.
- 23478 (b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount
23479 along with a copy of the court order.
- 23480 (22) The attorney general's office shall provide to the Utah Office for Victims of Crime a
23481 copy of all notices of alleged violations to which the attorney general's office did not
23482 respond with a letter of no merit in accordance with Subsection (16).
- 23483 (23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's
23484 order for payment.
- 23485 (24) The Utah Office for Victims of Crime shall:
- 23486 (a) maintain a record of documents and payments submitted pursuant to Subsections
23487 (21), (22), and (23);
- 23488 (b) create and provide to the Legislature in odd-numbered years beginning November
23489 2021, a report containing the following for the previous two years:
- 23490 (i) the number of notices of alleged violations received from the attorney general's
23491 office;
- 23492 (ii) the number of court orders received; and
- 23493 (iii) the total amount received and deposited into the Crime Victim Reparations Fund.
- 23494 (25) This section does not apply to:

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23495 (a) a person portrayed in obscene or pornographic material that is created, duplicated, or
23496 distributed without the person's knowledge or consent; or

23497 (b) a person who is coerced or blackmailed into distributing obscene or pornographic
23498 material.

23499 (26) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil
23500 penalty provided in Subsection (4) shall be adjusted by the Judicial Council based on the
23501 change in the annual Consumer Price Index for the most recent five-year period ending
23502 on December 31 of the previous year, and rounded to the nearest five dollars. The
23503 attorney general shall publish the dollar amount of the civil penalty together with the
23504 date of the next scheduled adjustment.

23505 Section 516. Section **78B-6-2301** is amended to read:

23506 **78B-6-2301 . Definitions.**

23507 As used in this part:

23508 (1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy
23509 issued, enacted, or required by a local or state governmental entity.

23510 (2) "Firearm" means the same as that term is defined in Section [~~53-5a-102~~] 53-5a-102.1.

23511 (3) "Legislative firearm preemption" means the preemption provided for in [~~Sections~~
23512 ~~53-5a-102 and 76-10-500~~] Section 53-5a-102.

23513 (4) "Local or state governmental entity" means:

23514 (a) a department, commission, board, council, agency, institution, officer, corporation,
23515 fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or
23516 other administrative unit of the state, including the Utah Board of Higher Education,
23517 each institution of higher education, and the boards of trustees of each higher
23518 education institution; or

23519 (b) a county, city, town, special district, local education agency, public school, school
23520 district, charter school, special service district under Title 17D, Chapter 1, Special
23521 Service District Act, an entity created by interlocal cooperation agreement under Title
23522 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity
23523 designated in statute as a political subdivision of the state.

23524 Section 517. Section **78B-7-502** is amended to read:

23525 **78B-7-502 . Definitions.**

23526 As used in this part:

23527 (1) "Ex parte sexual violence protective order" means an order issued without notice to the
23528 respondent under this part.

23529 (2) "Protective order" means:

23530 (a) a sexual violence protective order; or

23531 (b) an ex parte sexual violence protective order.

23532 (3) "Sexual violence" means the commission or the attempt to commit:

23533 (a) any sexual offense described in:

23534 (i) [-]Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417,
23535 76-5-418, 76-5-419, or 76-5-420; or

23536 (ii) [-]Title 76, Chapter 5b, Part 2, Sexual Exploitation;

23537 (b) human trafficking for sexual exploitation under Section 76-5-308.1; or

23538 (c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

23539 (4) "Sexual violence protective order" means an order issued under this part after a hearing
23540 on the petition, of which the petitioner and respondent have been given notice.

23541 Section 518. Section **78B-7-801** is amended to read:

23542 **78B-7-801 . Definitions.**

23543 As used in this part:

23544 (1)(a) "Jail release agreement" means a written agreement that is entered into by an
23545 individual who is arrested or issued a citation, regardless of whether the individual is
23546 booked into jail:

23547 (i) under which the arrested or cited individual agrees to not engage in any of the
23548 following:

23549 (A) telephoning, contacting, or otherwise communicating with the alleged victim,
23550 directly or indirectly;

23551 (B) threatening or harassing the alleged victim; or

23552 (C) knowingly entering onto the premises of the alleged victim's residence or on
23553 premises temporarily occupied by the alleged victim, unless, after a law
23554 enforcement officer or the law enforcement officer's employing agency notifies
23555 or attempts to notify the alleged victim, the individual enters the premises
23556 while accompanied by a law enforcement officer for the purpose of retrieving

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- 23557 the individual's personal belongings; and
- 23558 (ii) that specifies other conditions of release from jail or arrest.
- 23559 (b) "Jail release agreement" includes a written agreement that includes the conditions
- 23560 described in Section (1)(a) entered into by a minor who is taken into custody or
- 23561 placed in detention or a shelter facility under Section 80-6-201.
- 23562 (2) "Jail release court order" means a written court order that:
- 23563 (a) orders an arrested or cited individual not to engage in any of the following:
- 23564 (i) telephoning, contacting, or otherwise communicating with the alleged victim,
- 23565 directly or indirectly;
- 23566 (ii) threatening or harassing the alleged victim; or
- 23567 (iii) knowingly entering onto the premises of the alleged victim's residence or on
- 23568 premises temporarily occupied by the alleged victim, unless, after a law
- 23569 enforcement officer or the law enforcement officer's employing agency notifies or
- 23570 attempts to notify the alleged victim, the individual enters the premises while
- 23571 accompanied by a law enforcement officer for the purpose of retrieving the
- 23572 individual's personal belongings; and
- 23573 (b) specifies other conditions of release from jail.
- 23574 (3) "Minor" means the same as that term is defined in Section 80-1-102.
- 23575 (4) "Offense against a child or vulnerable adult" means the commission or attempted
- 23576 commission of an offense described in:
- 23577 (a) Section 76-5-109, child abuse;
- 23578 (b) Section 76-5-109.2, aggravated child abuse;
- 23579 (c) Section 76-5-109.3, child abandonment;
- 23580 (d) Section 76-5-110, abuse or neglect of a child with a disability;
- 23581 (e) Section 76-5-111, abuse of a vulnerable adult;
- 23582 (f) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
- 23583 (g) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;
- 23584 (h) Section 76-5-111.4, financial exploitation of a vulnerable adult;
- 23585 (i) Section 76-5-114, commission of domestic violence in the presence of a child; or
- 23586 (j) Section ~~[76-9-702.1]~~ 76-5-418, sexual battery.
- 23587 (5) "Qualifying offense" means:

- 23588 (a) domestic violence;
- 23589 (b) an offense against a child or vulnerable adult; or
- 23590 (c) the commission or attempted commission of an offense described in Section [
- 23591 ~~76-9-702.1~~] 76-5-418 or Title 76, Chapter 5, Part 4, Sexual Offenses, not
- 23596 including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

23597 Section 519. Section **78B-8-503** is amended to read:

23598 **78B-8-503 . Definitions.**

23599 As used in this part:

- 23600 (1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been
- 23601 exhausted, on the merits, on substantially all counts or charges in the action and with
- 23602 respect to the most significant issue or set of issues presented, but does not include the
- 23603 settlement of any action, either by stipulation, consent decree or otherwise, whether or
- 23604 not settlement occurs before or after any hearing or trial.
- 23605 (2) "Reasonable litigation expenses" means court costs, administrative hearing costs,
- 23606 attorney fees, and witness fees of all necessary witnesses, not in excess of \$25,000
- 23607 which a court finds were reasonably incurred in opposing action covered under this part.
- 23608 (3) "Small business" means a commercial or business entity, including a sole
- 23609 proprietorship, which does not have more than 250 employees, but does not include an
- 23610 entity which is a subsidiary or affiliate of another entity which is not a small business.
- 23611 (4) "State" means any department, board, institution, hospital, college, or university of the
- 23612 state of Utah or any political subdivision thereof, except with respect to actions brought
- 23613 under [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~] Title 76, Chapter 16, Part 5,
- 23614 Antitrust Offenses.

23615 Section 520. Section **78B-9-104** is amended to read:

23616 **78B-9-104 . Grounds for relief -- Retroactivity of rule.**

- 23617 (1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been
- 23618 convicted and sentenced for a criminal offense may file an action in the district court of
- 23619 original jurisdiction for postconviction relief to vacate or modify the conviction or
- 23620 sentence upon the following grounds:
- 23621 (a) the conviction was obtained or the sentence was imposed in violation of the United
- 23622 States Constitution or Utah Constitution;

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- 23623 (b) the conviction was obtained or the sentence was imposed under a statute that is in
23624 violation of the United States Constitution or Utah Constitution, or the conduct for
23625 which the petitioner was prosecuted is constitutionally protected;
- 23626 (c) the sentence was imposed or probation was revoked in violation of the controlling
23627 statutory provisions;
- 23628 (d) the petitioner had ineffective assistance of counsel in violation of the United States
23629 Constitution or Utah Constitution;
- 23630 (e) newly discovered material evidence exists that requires the court to vacate the
23631 conviction or sentence, because:
- 23632 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
23633 trial or sentencing or in time to include the evidence in any previously filed
23634 post-trial motion or postconviction proceeding, and the evidence could not have
23635 been discovered through the exercise of reasonable diligence;
- 23636 (ii) the material evidence is not merely cumulative of evidence that was known;
- 23637 (iii) the material evidence is not merely impeachment evidence; and
- 23638 (iv) viewed with all the other evidence, the newly discovered material evidence
23639 demonstrates that no reasonable trier of fact could have found the petitioner guilty
23640 of the offense or subject to the sentence received;
- 23641 (f) the petitioner can prove that:
- 23642 (i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the
23643 petitioner's conviction was not preserved in accordance with Title 77, Chapter
23644 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;
- 23645 (ii)(A) the biological evidence described in Subsection (1)(f)(i) was not tested
23646 previously; or
- 23647 (B) if the biological evidence described in Subsection (1)(f)(i) was tested
23648 previously, there is a material change in circumstance, including a scientific or
23649 technological advance, that would make it plausible that a test of the biological
23650 evidence described in Subsection (1)(f)(i) would produce a favorable test result
23651 for the petitioner; and
- 23652 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for
23653 purposes of the petitioner's action under this section, when viewed with all the

- 23654 other evidence, demonstrates a reasonable probability of a more favorable
23655 outcome at trial for the petitioner;
- 23656 (g) the petitioner can prove entitlement to relief under a rule announced by the United
23657 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after
23658 conviction and sentence became final on direct appeal, and that:
- 23659 (i) the rule was dictated by precedent existing at the time the petitioner's conviction
23660 or sentence became final; or
- 23661 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for
23662 which the petitioner was convicted; or
- 23663 (h) the petitioner committed any of the following offenses while subject to force, fraud,
23664 or coercion, as defined in Section 76-5-308:
- 23665 (i) Section 58-37-8, possession of a controlled substance;
- 23666 (ii) Section ~~[76-10-1304]~~ 76-5d-206, aiding prostitution;
- 23667 (iii) Section 76-6-206, criminal trespass;
- 23668 (iv) Section 76-6-413, theft;
- 23669 (v) Section 76-6-502, possession of forged writing or device for writing;
- 23670 (vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;
- 23671 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's
23672 identification document;
- 23673 (viii) Section ~~[76-9-702]~~ 76-5-419, lewdness;
- 23674 (ix) Section ~~[76-10-1302]~~ 76-5d-202, prostitution; ~~[or]~~
- 23675 (x) Section ~~[76-10-1313]~~ 76-5d-209, sexual solicitation; or
- 23676 (xi) Section 76-5d-210, sexual solicitation of a child.
- 23677 (2) The court may not grant relief from a conviction or sentence unless in light of the facts
23678 proved in the postconviction proceeding, viewed with the evidence and facts introduced
23679 at trial or during sentencing:
- 23680 (a) the petitioner establishes that there would be a reasonable likelihood of a more
23681 favorable outcome; or
- 23682 (b) if the petitioner challenges the conviction or the sentence on grounds that the
23683 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the
23684 petitioner establishes that the false testimony, in any reasonable likelihood, could

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23685 have affected the judgment of the fact finder.

23686 (3)(a) The court may not grant relief from a conviction based on a claim that the
23687 petitioner is innocent of the crime for which convicted except as provided in Part 3,
23688 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual
23689 Innocence.

23690 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction
23691 Determination of Factual Innocence, of this chapter may not be filed as part of a
23692 petition under this part, but shall be filed separately and in conformity with the
23693 provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction
23694 Determination of Factual Innocence.

23695 Section 521. Section **80-1-102** is amended to read:

23696 **80-1-102 . Juvenile Code definitions.**

23697 Except as provided in Section 80-6-1103, as used in this title:

23698 (1)(a) "Abuse" means:

23699 (i)(A) nonaccidental harm of a child;

23700 (B) threatened harm of a child;

23701 (C) sexual exploitation;

23702 (D) sexual abuse; or

23703 (E) human trafficking of a child in violation of Section 76-5-308.5; or

23704 (ii) that a child's natural parent:

23705 (A) intentionally, knowingly, or recklessly causes the death of another parent of
23706 the child;

23707 (B) is identified by a law enforcement agency as the primary suspect in an
23708 investigation for intentionally, knowingly, or recklessly causing the death of
23709 another parent of the child; or

23710 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
23711 recklessly causing the death of another parent of the child.

23712 (b) "Abuse" does not include:

23713 (i) reasonable discipline or management of a child, including withholding privileges;

23714 (ii) conduct described in Section 76-2-401; or

23715 (iii) the use of reasonable and necessary physical restraint or force on a child:

- 23716 (A) in self-defense;
- 23717 (B) in defense of others;
- 23718 (C) to protect the child; or
- 23719 (D) to remove a weapon in the possession of a child for any of the reasons
- 23720 described in Subsections (1)(b)(iii)(A) through (C).
- 23721 (2) "Abused child" means a child who has been subjected to abuse.
- 23722 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):
- 23723 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
- 23724 Justice:
- 23725 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
- 23726 or criminal information alleging that a minor committed an offense have been
- 23727 proved;
- 23728 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
- 23729 or
- 23730 (C) a plea of no contest by minor in the juvenile court; or
- 23731 (ii) for all other proceedings under this title, a finding by the juvenile court that the
- 23732 facts alleged in the petition have been proved.
- 23733 (b) "Adjudication" does not include:
- 23734 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
- 23735 enters the minor's admission; or
- 23736 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 23737 (4)(a) "Adult" means an individual who is 18 years old or older.
- 23738 (b) "Adult" does not include an individual:
- 23739 (i) who is 18 years old or older; and
- 23740 (ii) who is a minor.
- 23741 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 23742 78A-2-801.
- 23743 (6) "Board" means the Board of Juvenile Court Judges.
- 23744 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
- 23745 years old.
- 23746 (8) "Child and family plan" means a written agreement between a child's parents or

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- 23747 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 23748 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 23749 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 23750 (11) "Child protection team" means a team consisting of:
- 23751 (a) the child welfare caseworker assigned to the case;
- 23752 (b) if applicable, the child welfare caseworker who made the decision to remove the
- 23753 child;
- 23754 (c) a representative of the school or school district where the child attends school;
- 23755 (d) if applicable, the law enforcement officer who removed the child from the home;
- 23756 (e) a representative of the appropriate Children's Justice Center, if one is established
- 23757 within the county where the child resides;
- 23758 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
- 23759 with the child's circumstances;
- 23760 (g) if appropriate, a representative of law enforcement selected by the chief of police or
- 23761 sheriff in the city or county where the child resides; and
- 23762 (h) any other individuals determined appropriate and necessary by the team coordinator
- 23763 and chair.
- 23764 (12)(a) "Chronic abuse" means repeated or patterned abuse.
- 23765 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 23766 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 23767 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 23768 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
- 23769 58-37d-3.
- 23770 (15) "Commit" or "committed" means, unless specified otherwise:
- 23771 (a) with respect to a child, to transfer legal custody; and
- 23772 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 23773 (16) "Community-based program" means a nonsecure residential or nonresidential program,
- 23774 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
- 23775 restrictive setting, consistent with public safety, and operated by or under contract with
- 23776 the Division of Juvenile Justice and Youth Services.
- 23777 (17) "Community placement" means placement of a minor in a community-based program

- 23778 described in Section 80-5-402.
- 23779 (18) "Correctional facility" means:
- 23780 (a) a county jail; or
- 23781 (b) a secure correctional facility as defined in Section 64-13-1.
- 23782 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
- 23783 minor's likelihood of reoffending.
- 23784 (20) "Department" means the Department of Health and Human Services created in Section
- 23785 26B-1-201.
- 23786 (21) "Dependent child" or "dependency" means a child who is without proper care through
- 23787 no fault of the child's parent, guardian, or custodian.
- 23788 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
- 23789 parent or a previous custodian to another person, agency, or institution.
- 23790 (23) "Detention" means home detention or secure detention.
- 23791 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
- 23792 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 23793 (25) "Detention risk assessment tool" means an evidence-based tool established under
- 23794 Section 80-5-203 that:
- 23795 (a) assesses a minor's risk of failing to appear in court or reoffending before
- 23796 adjudication; and
- 23797 (b) is designed to assist in making a determination of whether a minor shall be held in
- 23798 detention.
- 23799 (26) "Developmental immaturity" means incomplete development in one or more domains
- 23800 that manifests as a functional limitation in the minor's present ability to:
- 23801 (a) consult with counsel with a reasonable degree of rational understanding; and
- 23802 (b) have a rational as well as factual understanding of the proceedings.
- 23803 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
- 23804 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 23805 (28) "Educational neglect" means that, after receiving a notice of compulsory education
- 23806 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
- 23807 effort to ensure that the child receives an appropriate education.
- 23808 (29) "Educational series" means an evidence-based instructional series:

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- 23809 (a) obtained at a substance abuse program that is approved by the Division of Integrated
23810 Healthcare in accordance with Section 26B-5-104; and
- 23811 (b) designed to prevent substance use or the onset of a mental health disorder.
- 23812 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 23813 (31) "Evidence-based" means a program or practice that has had multiple randomized
23814 control studies or a meta-analysis demonstrating that the program or practice is effective
23815 for a specific population or has been rated as effective by a standardized program
23816 evaluation tool.
- 23817 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 23818 (33) "Formal probation" means a minor is:
- 23819 (a) supervised in the community by, and reports to, a juvenile probation officer or an
23820 agency designated by the juvenile court; and
- 23821 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 23822 (34) "Group rehabilitation therapy" means psychological and social counseling of one or
23823 more individuals in the group, depending upon the recommendation of the therapist.
- 23824 (35) "Guardian" means a person appointed by a court to make decisions regarding a minor,
23825 including the authority to consent to:
- 23826 (a) marriage;
- 23827 (b) enlistment in the armed forces;
- 23828 (c) major medical, surgical, or psychiatric treatment; or
- 23829 (d) legal custody, if legal custody is not vested in another individual, agency, or
23830 institution.
- 23831 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 23832 (37) "Harm" means:
- 23833 (a) physical or developmental injury or damage;
- 23834 (b) emotional damage that results in a serious impairment in the child's growth,
23835 development, behavior, or psychological functioning;
- 23836 (c) sexual abuse; or
- 23837 (d) sexual exploitation.
- 23838 (38) "Home detention" means placement of a minor:
- 23839 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent

- 23840 of the minor's parent, guardian, or custodian, under terms and conditions established
23841 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
23842 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
23843 minor's home, or in a surrogate home with the consent of the minor's parent,
23844 guardian, or custodian, under terms and conditions established by the Division of
23845 Juvenile Justice and Youth Services or the juvenile court.
- 23846 (39)(a) "Incest" means engaging in sexual intercourse with an individual whom the
23847 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
23848 aunt, nephew, niece, or first cousin.
- 23849 (b) "Incest" includes:
- 23850 (i) blood relationships of the whole or half blood, regardless of whether the
23851 relationship is legally recognized;
- 23852 (ii) relationships of parent and child by adoption; and
- 23853 (iii) relationships of stepparent and stepchild while the marriage creating the
23854 relationship of a stepparent and stepchild exists.
- 23855 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 23856 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 23857 (42) "Indigent defense service provider" means the same as that term is defined in Section
23858 78B-22-102.
- 23859 (43) "Indigent defense services" means the same as that term is defined in Section
23860 78B-22-102.
- 23861 (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 23862 (45)(a) "Intake probation" means a minor is:
- 23863 (i) monitored by a juvenile probation officer; and
- 23864 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 23865 (b) "Intake probation" does not include formal probation.
- 23866 (46) "Intellectual disability" means a significant subaverage general intellectual functioning
23867 existing concurrently with deficits in adaptive behavior that constitutes a substantial
23868 limitation to the individual's ability to function in society.
- 23869 (47) "Juvenile offender" means:
- 23870 (a) a serious youth offender; or

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- 23871 (b) a youth offender.
- 23872 (48) "Juvenile probation officer" means a probation officer appointed under Section
23873 78A-6-205.
- 23874 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by
23875 the Division of Juvenile Justice and Youth Services, or under contract with the Division
23876 of Juvenile Justice and Youth Services, that is responsible for minors taken into
23877 temporary custody under Section 80-6-201.
- 23878 (50) "Legal custody" means a relationship embodying:
- 23879 (a) the right to physical custody of the minor;
- 23880 (b) the right and duty to protect, train, and discipline the minor;
- 23881 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
23882 medical care;
- 23883 (d) the right to determine where and with whom the minor shall live; and
- 23884 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 23885 (51) "Licensing Information System" means the Licensing Information System maintained
23886 by the Division of Child and Family Services under Section 80-2-1002.
- 23887 (52) "Management Information System" means the Management Information System
23888 developed by the Division of Child and Family Services under Section 80-2-1001.
- 23889 (53) "Mental illness" means:
- 23890 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
23891 behavioral, or related functioning; or
- 23892 (b) the same as that term is defined in:
- 23893 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
23894 published by the American Psychiatric Association; or
- 23895 (ii) the current edition of the International Statistical Classification of Diseases and
23896 Related Health Problems.
- 23897 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- 23898 (a) a child; or
- 23899 (b) an individual:
- 23900 (i)(A) who is at least 18 years old and younger than 21 years old; and
- 23901 (B) for whom the Division of Child and Family Services has been specifically

23902 ordered by the juvenile court to provide services because the individual was an
23903 abused, neglected, or dependent child or because the individual was
23904 adjudicated for an offense;

23905 (ii)(A) who is at least 18 years old and younger than 25 years old; and

23906 (B) whose case is under the jurisdiction of the juvenile court in accordance with
23907 Subsection 78A-6-103(1)(b); or

23908 (iii)(A) who is at least 18 years old and younger than 21 years old; and

23909 (B) whose case is under the jurisdiction of the juvenile court in accordance with
23910 Subsection 78A-6-103(1)(c).

23911 (55) "Mobile crisis outreach team" means the same as that term is defined in Section
23912 26B-5-101.

23913 (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual
23914 desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
23915 or the breast of a female child, or takes indecent liberties with a child as defined in
23916 Section 76-5-401.1.

23917 (57)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's
23918 biological or adoptive parent.

23919 (b) "Natural parent" includes the minor's noncustodial parent.

23920 (58)(a) "Neglect" means action or inaction causing:

23921 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
23922 Relinquishment of a Newborn Child;

23923 (ii) lack of proper parental care of a child by reason of the fault or habits of the
23924 parent, guardian, or custodian;

23925 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
23926 necessary subsistence or medical care, or any other care necessary for the child's
23927 health, safety, morals, or well-being;

23928 (iv) a child to be at risk of being neglected or abused because another child in the
23929 same home is neglected or abused;

23930 (v) abandonment of a child through an unregulated child custody transfer under
23931 Section 78B-24-203; or

23932 (vi) educational neglect.

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- 23933 (b) "Neglect" does not include:
- 23934 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
- 23935 reason, does not provide specified medical treatment for a child;
- 23936 (ii) a health care decision made for a child by the child's parent or guardian, unless
- 23937 the state or other party to a proceeding shows, by clear and convincing evidence,
- 23938 that the health care decision is not reasonable and informed;
- 23939 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 23940 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
- 23941 maturity to avoid harm or unreasonable risk of harm, to engage in independent
- 23942 activities, including:
- 23943 (A) traveling to and from school, including by walking, running, or bicycling;
- 23944 (B) traveling to and from nearby commercial or recreational facilities;
- 23945 (C) engaging in outdoor play;
- 23946 (D) remaining in a vehicle unattended, except under the conditions described in
- 23947 Subsection [~~76-10-2202(2)~~] 76-5-115(2);
- 23948 (E) remaining at home unattended; or
- 23949 (F) engaging in a similar independent activity.
- 23950 (59) "Neglected child" means a child who has been subjected to neglect.
- 23951 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation
- 23952 officer, without an adjudication of the minor's case under Section 80-6-701, upon the
- 23953 consent in writing of:
- 23954 (a) the assigned juvenile probation officer; and
- 23955 (b)(i) the minor; or
- 23956 (ii) the minor and the minor's parent, guardian, or custodian.
- 23957 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual
- 23958 disability or related condition, or developmental immaturity, lacks the ability to:
- 23959 (a) understand the nature of the proceedings against the minor or of the potential
- 23960 disposition for the offense charged; or
- 23961 (b) consult with counsel and participate in the proceedings against the minor with a
- 23962 reasonable degree of rational understanding.
- 23963 (62) "Parole" means a conditional release of a juvenile offender from residency in secure

- 23964 care to live outside of secure care under the supervision of the Division of Juvenile
23965 Justice and Youth Services, or another person designated by the Division of Juvenile
23966 Justice and Youth Services.
- 23967 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 23968 (64)(a) "Probation" means a legal status created by court order, following an
23969 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
23970 minor's home under prescribed conditions.
- 23971 (b) "Probation" includes intake probation or formal probation.
- 23972 (65) "Prosecuting attorney" means:
- 23973 (a) the attorney general and any assistant attorney general;
23974 (b) any district attorney or deputy district attorney;
23975 (c) any county attorney or assistant county attorney; and
23976 (d) any other attorney authorized to commence an action on behalf of the state.
- 23977 (66) "Protective custody" means the shelter of a child by the Division of Child and Family
23978 Services from the time the child is removed from the home until the earlier of:
- 23979 (a) the day on which the shelter hearing is held under Section 80-3-301; or
23980 (b) the day on which the child is returned home.
- 23981 (67) "Protective services" means expedited services that are provided:
- 23982 (a) in response to evidence of neglect, abuse, or dependency of a child;
23983 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 23984 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
23985 causes of neglect or abuse; and
23986 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
23987 (c) in cases where the child's welfare is endangered:
- 23988 (i) to bring the situation to the attention of the appropriate juvenile court and law
23989 enforcement agency;
23990 (ii) to cause a protective order to be issued for the protection of the child, when
23991 appropriate; and
23992 (iii) to protect the child from the circumstances that endanger the child's welfare
23993 including, when appropriate:
23994 (A) removal from the child's home;

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- 23995 (B) placement in substitute care; and
- 23996 (C) petitioning the court for termination of parental rights.
- 23997 (68) "Protective supervision" means a legal status created by court order, following an
- 23998 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 23999 (a) the minor is permitted to remain in the minor's home; and
- 24000 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
- 24001 by an agency designated by the juvenile court.
- 24002 (69)(a) "Related condition" means a condition that:
- 24003 (i) is found to be closely related to intellectual disability;
- 24004 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 24005 similar to that of an intellectually disabled individual;
- 24006 (iii) is likely to continue indefinitely; and
- 24007 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 24008 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 24009 serious emotional or behavioral disturbance.
- 24010 (70)(a) "Residual parental rights and duties" means the rights and duties remaining with
- 24011 a parent after legal custody or guardianship, or both, have been vested in another
- 24012 person or agency, including:
- 24013 (i) the responsibility for support;
- 24014 (ii) the right to consent to adoption;
- 24015 (iii) the right to determine the child's religious affiliation; and
- 24016 (iv) the right to reasonable parent-time unless restricted by the court.
- 24017 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
- 24018 right to consent to:
- 24019 (i) marriage;
- 24020 (ii) enlistment; and
- 24021 (iii) major medical, surgical, or psychiatric treatment.
- 24022 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the
- 24023 home of the child's parent or guardian, or the lawfully prescribed residence of the child,
- 24024 without permission.
- 24025 (72) "Secure care" means placement of a minor, who is committed to the Division of

24026 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
24027 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
24028 supervision and confinement of the minor.

24029 (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503,
24030 for juvenile offenders in secure care.

24031 (74) "Secure detention" means temporary care of a minor who requires secure custody in a
24032 physically restricting facility operated by, or under contract with, the Division of
24033 Juvenile Justice and Youth Services:

24034 (a) before disposition of an offense that is alleged to have been committed by the minor;

24035 or

24036 (b) under Section 80-6-704.

24037 (75) "Serious youth offender" means an individual who:

24038 (a) is at least 14 years old, but under 25 years old;

24039 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
24040 of the juvenile court was extended over the individual's case until the individual was
24041 25 years old in accordance with Section 80-6-605; and

24042 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
24043 Services for secure care under Sections 80-6-703 and 80-6-705.

24044 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

24045 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
24046 child.

24047 (78)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection

24048 (78)(b):

24049 (i) if committed by an individual who is 18 years old or older:

24050 (A) chronic abuse;

24051 (B) severe abuse;

24052 (C) sexual abuse;

24053 (D) sexual exploitation;

24054 (E) abandonment;

24055 (F) chronic neglect; or

24056 (G) severe neglect; or

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- 24057 (ii) if committed by an individual who is under 18 years old:
- 24058 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to
- 24059 another child that indicates a significant risk to other children; or
- 24060 (B) sexual behavior with or upon another child that indicates a significant risk to
- 24061 other children.
- 24062 (b) "Severe type of child abuse or neglect" does not include:
- 24063 (i) the use of reasonable and necessary physical restraint by an educator in
- 24064 accordance with Subsection 53G-8-302(2) or Section 76-2-401;
- 24065 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 24066 use of reasonable and necessary physical restraint or force in self-defense or
- 24067 otherwise appropriate to the circumstances to obtain possession of a weapon or
- 24068 other dangerous object in the possession or under the control of a child or to
- 24069 protect the child or another individual from physical injury; or
- 24070 (iii) a health care decision made for a child by a child's parent or guardian, unless,
- 24071 subject to Subsection (78)(c), the state or other party to the proceeding shows, by
- 24072 clear and convincing evidence, that the health care decision is not reasonable and
- 24073 informed.
- 24074 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the
- 24075 right to obtain a second health care opinion.
- 24076 (79) "Sexual abuse" means:
- 24077 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
- 24078 adult directed towards a child;
- 24079 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
- 24080 committed by a child towards another child if:
- 24081 (i) there is an indication of force or coercion;
- 24082 (ii) the children are related, as described in Subsection (39), including siblings by
- 24083 marriage while the marriage exists or by adoption;
- 24084 (iii) there have been repeated incidents of sexual contact between the two children,
- 24085 unless the children are 14 years old or older; or
- 24086 (iv) there is a disparity in chronological age of four or more years between the two
- 24087 children;

- 24088 (c) engaging in any conduct with a child that would constitute an offense under any of
24089 the following, regardless of whether the individual who engages in the conduct is
24090 actually charged with, or convicted of, the offense:
- 24091 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, not including Section 76-5-417,
24092 76-5-418, 76-5-419, or 76-5-420, and except for Section 76-5-401, if the alleged
24093 perpetrator of an offense described in Section 76-5-401 is a minor;
- 24094 (ii) child bigamy, Section 76-7-101.5;
- 24095 (iii) incest, Section 76-7-102;
- 24096 (iv) lewdness, Section [~~76-9-702~~] 76-5-419;
- 24097 (v) sexual battery, Section [~~76-9-702.1~~] 76-5-418;
- 24098 (vi) lewdness involving a child, Section [~~76-9-702.5~~] 76-5-420; [~~or~~]
- 24099 (vii) voyeurism, Section [~~76-9-702.7~~] 76-12-306;
- 24100 (viii) recorded or photographed voyeurism, Section 76-12-307; or
- 24101 (ix) distribution of images obtained through voyeurism, Section 76-12-308; or
- 24102 (d) subjecting a child to participate in or threatening to subject a child to participate in a
24103 sexual relationship, regardless of whether that sexual relationship is part of a legal or
24104 cultural marriage.
- 24105 (80) "Sexual exploitation" means knowingly:
- 24106 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 24107 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 24108 (ii) engage in any sexual or simulated sexual conduct for the purpose of
24109 photographing, filming, recording, or displaying in any way the sexual or
24110 simulated sexual conduct;
- 24111 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
24112 depicting a child:
- 24113 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 24114 (ii) engaging in sexual or simulated sexual conduct; or
- 24115 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
24116 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
24117 exploitation of a minor, regardless of whether the individual who engages in the
24118 conduct is actually charged with, or convicted of, the offense.

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- 24119 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
24120 pending a disposition or transfer to another jurisdiction.
- 24121 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 24122 (83) "Significant risk" means a risk of harm that is determined to be significant in
24123 accordance with risk assessment tools and rules established by the Division of Child and
24124 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
24125 Rulemaking Act, that focus on:
- 24126 (a) age;
 - 24127 (b) social factors;
 - 24128 (c) emotional factors;
 - 24129 (d) sexual factors;
 - 24130 (e) intellectual factors;
 - 24131 (f) family risk factors; and
 - 24132 (g) other related considerations.
- 24133 (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 24134 (85) "Status offense" means an offense that would not be an offense but for the age of the
24135 offender.
- 24136 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or
24137 excessive use of alcohol or other drugs or substances.
- 24138 (87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance
24139 of the evidence, and separate consideration of each allegation made or identified in the
24140 case, that abuse, neglect, or dependency occurred .
- 24141 (88) "Substitute care" means:
- 24142 (a) the placement of a minor in a family home, group care facility, or other placement
24143 outside the minor's own home, either at the request of a parent or other responsible
24144 relative, or upon court order, when it is determined that continuation of care in the
24145 minor's own home would be contrary to the minor's welfare;
 - 24146 (b) services provided for a minor in the protective custody of the Division of Child and
24147 Family Services, or a minor in the temporary custody or custody of the Division of
24148 Child and Family Services, as those terms are defined in Section 80-2-102; or
 - 24149 (c) the licensing and supervision of a substitute care facility.

- 24150 (89) "Supported" means a finding by the Division of Child and Family Services based on
24151 the evidence available at the completion of an investigation, and separate consideration
24152 of each allegation made or identified during the investigation, that there is a reasonable
24153 basis to conclude that abuse, neglect, or dependency occurred.
- 24154 (90) "Termination of parental rights" means the permanent elimination of all parental rights
24155 and duties, including residual parental rights and duties, by court order.
- 24156 (91) "Therapist" means:
- 24157 (a) an individual employed by a state division or agency for the purpose of conducting
24158 psychological treatment and counseling of a minor in the division's or agency's
24159 custody; or
- 24160 (b) any other individual licensed or approved by the state for the purpose of conducting
24161 psychological treatment and counseling.
- 24162 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that
24163 the child is at an unreasonable risk of harm or neglect.
- 24164 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- 24165 (a) results in behavior that is beyond the control or ability of the child, or the parent or
24166 guardian, to manage effectively;
- 24167 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
24168 (c) results in the situations described in Subsections (93)(a) and (b).
- 24169 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
24170 conclude that abuse, neglect, or dependency occurred.
- 24171 (95) "Unsupported" means a finding by the Division of Child and Family Services at the
24172 completion of an investigation, after the day on which the Division of Child and Family
24173 Services concludes the alleged abuse, neglect, or dependency is not without merit, that
24174 there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.
- 24175 (96) "Validated risk and needs assessment" means an evidence-based tool that assesses a
24176 minor's risk of reoffending and a minor's criminogenic needs.
- 24177 (97) "Without merit" means a finding at the completion of an investigation by the Division
24178 of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or
24179 dependency did not occur, or that the alleged perpetrator was not responsible for the
24180 abuse, neglect, or dependency.

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- 24181 (98) "Youth offender" means an individual who is:
- 24182 (a) at least 12 years old, but under 21 years old; and
- 24183 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
- 24184 Services for secure care under Sections 80-6-703 and 80-6-705.
- 24185 Section 522. Section **80-2-301** is amended to read:
- 24186 **80-2-301 . Division responsibilities.**
- 24187 (1) The division is the child, youth, and family services authority of the state.
- 24188 (2) The division shall:
- 24189 (a) administer services to minors and families, including:
- 24190 (i) child welfare services;
- 24191 (ii) domestic violence services; and
- 24192 (iii) all other responsibilities that the Legislature or the executive director of the
- 24193 department may assign to the division;
- 24194 (b) provide the following services:
- 24195 (i) financial and other assistance to an individual adopting a child with special needs
- 24196 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division
- 24197 would provide for the child as a legal ward of the state;
- 24198 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
- 24199 including:
- 24200 (A) services designed to prevent family break-up; and
- 24201 (B) family preservation services;
- 24202 (iii) reunification services to families whose children are in substitute care in
- 24203 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a
- 24204 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 24205 (iv) protective supervision of a family, upon court order, in an effort to eliminate
- 24206 abuse or neglect of a child in that family;
- 24207 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
- 24208 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 24209 (vi) domestic violence services, in accordance with the requirements of federal law;
- 24210 (vii) protective services to victims of domestic violence and the victims' children, in
- 24211 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a

- 24212 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 24213 (viii) substitute care for dependent, abused, and neglected children;
- 24214 (ix) services for minors who are victims of human trafficking or human smuggling,
- 24215 as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in
- 24216 prostitution or sexual solicitation, as defined in Sections [~~76-10-1302~~] 76-5d-202
- 24217 and [~~76-10-1313~~] 76-5d-210;
- 24220 and
- 24221 (x) training for staff and providers involved in the administration and delivery of
- 24222 services offered by the division in accordance with this chapter and Chapter 2a,
- 24223 Removal and Protective Custody of a Child;
- 24224 (c) establish standards for all:
- 24225 (i) contract providers of out-of-home care for minors and families;
- 24226 (ii) facilities that provide substitute care for dependent, abused, or neglected children
- 24227 placed in the custody of the division; and
- 24228 (iii) direct or contract providers of domestic violence services described in
- 24229 Subsection (2)(b)(vi);
- 24230 (d) have authority to:
- 24231 (i) contract with a private, nonprofit organization to recruit and train foster care
- 24232 families and child welfare volunteers in accordance with Section 80-2-405;
- 24233 (ii) approve facilities that meet the standards established under Subsection (2)(c) to
- 24234 provide substitute care for dependent, abused, or neglected children placed in the
- 24235 custody of the division; and
- 24236 (iii) approve an individual to provide short-term relief care to a foster parent if the
- 24237 individual:
- 24238 (A) provides the relief care for less than six consecutive nights;
- 24239 (B) provides the relief care in the short-term relief care provider's home;
- 24240 (C) is direct access qualified, as that term is defined in Section 26B-2-120; and
- 24241 (D) is an immediate family member or relative, as those terms are defined in
- 24242 Section 80-3-102, of the foster parent;
- 24243 (e) cooperate with the federal government in the administration of child welfare and
- 24244 domestic violence programs and other human service activities assigned by the

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- 24245 department;
- 24246 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
24247 enacted for the protection of abused, neglected, or dependent children, in accordance
24248 with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless
24249 administration is expressly vested in another division or department of the state;
- 24250 (g) cooperate with the Workforce Development Division within the Department of
24251 Workforce Services in meeting the social and economic needs of an individual who is
24252 eligible for public assistance;
- 24253 (h) compile relevant information, statistics, and reports on child and family service
24254 matters in the state;
- 24255 (i) prepare and submit to the department, the governor, and the Legislature reports of the
24256 operation and administration of the division in accordance with the requirements of
24257 Sections 80-2-1102 and 80-2-1103;
- 24258 (j) within appropriations from the Legislature, provide or contract for a variety of
24259 domestic violence services and treatment methods;
- 24260 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of
24261 abuse and neglect in accordance with Section 80-2-503;
- 24262 (l) seek reimbursement of funds the division expends on behalf of a child in the
24263 protective custody, temporary custody, or custody of the division, from the child's
24264 parent or guardian in accordance with an order for child support under Section
24265 78A-6-356;
- 24266 (m) ensure regular, periodic publication, including electronic publication, regarding the
24267 number of children in the custody of the division who:
- 24268 (i) have a permanency goal of adoption; or
24269 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and
24270 promote adoption of the children;
- 24271 (n) subject to Subsections (5) and (7), refer an individual receiving services from the
24272 division to the local substance abuse authority or other private or public resource for
24273 a court-ordered drug screening test;
- 24274 (o) report before November 30, 2020, and every third year thereafter, to the Social
24275 Services Appropriations Subcommittee regarding:

- 24276 (i) the daily reimbursement rate that is provided to licensed foster parents based on
24277 level of care;
- 24278 (ii) the amount of money spent on daily reimbursements for licensed foster parents
24279 during the previous fiscal year; and
- 24280 (iii) any recommended changes to the division's budget to support the daily
24281 reimbursement rates described in Subsection (2)(o)(i);
- 24282 (p) when a division child welfare caseworker identifies a safety concern with the foster
24283 home, cooperate with the Office of Licensing and make a recommendation to the
24284 Office of Licensing concerning whether the foster home's license should be placed on
24285 conditions, suspended, or revoked; and
- 24286 (q) perform other duties and functions required by law.
- 24287 (3)(a) The division may provide, directly or through contract, services that include the
24288 following:
- 24289 (i) adoptions;
- 24290 (ii) day-care services;
- 24291 (iii) out-of-home placements for minors;
- 24292 (iv) health-related services;
- 24293 (v) homemaking services;
- 24294 (vi) home management services;
- 24295 (vii) protective services for minors;
- 24296 (viii) transportation services; or
- 24297 (ix) domestic violence services.
- 24298 (b) The division shall monitor services provided directly by the division or through
24299 contract to ensure compliance with applicable law and rules made in accordance with
24300 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 24301 (c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
24302 through a private contract, the division shall post the name of the service provider
24303 on the division's website.
- 24304 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.
- 24305 (4)(a) The division may:
- 24306 (i) receive gifts, grants, devises, and donations;

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- 24307 (ii) encourage merchants and service providers to:
- 24308 (A) donate goods or services; or
- 24309 (B) provide goods or services at a nominal price or below cost;
- 24310 (iii) distribute goods to applicants or consumers of division services free or for a
- 24311 nominal charge and tax free; and
- 24312 (iv) appeal to the public for funds to meet needs of applicants or consumers of
- 24313 division services that are not otherwise provided by law, including Sub-for-Santa
- 24314 programs, recreational programs for minors, and requests for household
- 24315 appliances and home repairs.
- 24316 (b) If requested by the donor and subject to state and federal law, the division shall use a
- 24317 gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for
- 24318 the purpose requested by the donor.
- 24319 (5)(a) In carrying out the requirements of Subsection (2)(f), the division shall:
- 24320 (i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth
- 24321 Services, and with all public and private licensed child welfare agencies and
- 24322 institutions to develop and administer a broad range of services and support;
- 24323 (ii) take the initiative in all matters involving the protection of abused or neglected
- 24324 children, if adequate provisions have not been made or are not likely to be made;
- 24325 and
- 24326 (iii) make expenditures necessary for the care and protection of the children described
- 24327 in Subsection (5)(a)(ii), within the division's budget.
- 24328 (b) If an individual is referred to a local substance abuse authority or other private or
- 24329 public resource for court-ordered drug screening under Subsection (2)(n), the court
- 24330 shall order the individual to pay all costs of the tests unless:
- 24331 (i) the cost of the drug screening is specifically funded or provided for by other
- 24332 federal or state programs;
- 24333 (ii) the individual is a participant in a drug court; or
- 24334 (iii) the court finds that the individual is an indigent individual.
- 24335 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3,
- 24336 Utah Administrative Rulemaking Act, the division is not required to investigate
- 24337 domestic violence in the presence of a child, as described in Section 76-5-114.

- 24338 (7)(a) Except as provided in Subsection (7)(b), the division may not:
- 24339 (i) require a parent who has a child in the custody of the division to pay for some or
- 24340 all of the cost of any drug testing the parent is required to undergo; or
- 24341 (ii) refer an individual who is receiving services from the division for drug testing by
- 24342 means of a hair, fingernail, or saliva test that is administered to detect the presence
- 24343 of drugs.
- 24344 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is
- 24345 receiving services from the division for drug testing by means of a saliva test if:
- 24346 (i) the individual consents to drug testing by means of a saliva test; or
- 24347 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,
- 24348 orders the individual to complete drug testing by means of a saliva test.

24349 Section 523. Section **80-4-302** is amended to read:

24350 **80-4-302 . Evidence of grounds for termination.**

- 24351 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
- 24352 evidence of abandonment that the parent or parents:
- 24353 (a) although having legal custody of the child, have surrendered physical custody of the
- 24354 child, and for a period of six months following the surrender have not manifested to
- 24355 the child or to the person having the physical custody of the child a firm intention to
- 24356 resume physical custody or to make arrangements for the care of the child;
- 24357 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
- 24358 months;
- 24359 (c) failed to have shown the normal interest of a natural parent, without just cause; or
- 24360 (d) have abandoned an infant, as described in Section 80-4-203.
- 24361 (2) In determining whether a parent or parents are unfit or have neglected a child the
- 24362 juvenile court shall consider:
- 24363 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
- 24364 parent unable to care for the immediate and continuing physical or emotional needs
- 24365 of the child for extended periods of time;
- 24366 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
- 24367 nature;
- 24368 (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous

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- 24369 drugs that render the parent unable to care for the child;
- 24370 (d) repeated or continuous failure to provide the child with adequate food, clothing,
24371 shelter, education, or other care necessary for the child's physical, mental, and
24372 emotional health and development by a parent or parents who are capable of
24373 providing that care;
- 24374 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
24375 sentence is of such length that the child will be deprived of a normal home for more
24376 than one year;
- 24377 (f) a history of violent behavior;
- 24378 (g) whether the parent has intentionally exposed the child to:
- 24379 (i) [-]pornography; or[-]
24380 (ii) material harmful to a minor, as defined in Section [~~76-10-1201~~] 76-5c-101; or
- 24385 (h) any other circumstance, conduct, or condition that the court considers relevant in the
24386 determination of whether a parent or parents are unfit or have neglected the child.
- 24387 (3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a
24388 parent because of or otherwise consider the parent's lawful possession or consumption of
24389 cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in
24390 Section 26B-4-201 or a medical cannabis device, in accordance with Title 26B, Chapter
24391 4, Part 2, Cannabinoid Research and Medical Cannabis.
- 24392 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide
24393 specified medical treatment for a child is not, for that reason alone, a negligent or unfit
24394 parent.
- 24395 (5)(a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
24396 unfit because of a health care decision made for a child by the child's parent unless
24397 the state or other party to the proceeding shows, by clear and convincing evidence,
24398 that the health care decision is not reasonable and informed.
- 24399 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to
24400 obtain a second health care opinion.
- 24401 (6) If a child has been placed in the custody of the division and the parent or parents fail to
24402 comply substantially with the terms and conditions of a plan within six months after the
24403 date on which the child was placed or the plan was commenced, whichever occurs later,

24404 that failure to comply is evidence of failure of parental adjustment.

24405 (7) The following circumstances are prima facie evidence of unfitness:

- 24406 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
24407 child, due to known or substantiated abuse or neglect by the parent or parents;
- 24408 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
24409 indicate the unfitness of the parent to provide adequate care to the extent necessary
24410 for the child's physical, mental, or emotional health and development;
- 24411 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of
24412 the child;
- 24413 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
24414 commit murder or manslaughter of a child or child abuse homicide; or
- 24415 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
24416 of the child, without legal justification.

24417 Section 524. Section **80-6-103** is amended to read:

24418 **80-6-103 . Notification to a school -- Civil and criminal liability.**

24419 (1) As used in this section:

- 24420 (a) "School" means a school in a local education agency.
- 24421 (b) "Local education agency" means a school district, a charter school, or the Utah
24422 Schools for the Deaf and the Blind.
- 24423 (c) "School official" means the superintendent of a school district or the director of a
24424 charter school or designee in which the minor resides or attends school.
- 24425 (d) "Serious offense" means:
- 24426 (i) a violent felony as defined in Section 76-3-203.5;
- 24427 (ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property
24428 stolen is a firearm; or
- 24429 (iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76,
24430 Chapter 11, Weapons.
- 24431 (e) "Transferee school official" means the superintendent of a school district or the
24432 director of a charter school or designee in which the minor resides or attends school if
24433 the minor is admitted to home detention.

24434 (2) A notification under this section is provided for a minor's supervision and student safety.

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- 24435 (3)(a) If a minor is taken into temporary custody under Section 80-6-201 for a serious
24436 offense, the peace officer, or other person who has taken the minor into temporary
24437 custody, shall notify a school official within five days after the day on which the
24438 minor is taken into temporary custody.
- 24439 (b) A notification under this Subsection (3) shall only disclose:
- 24440 (i) the name of the minor;
- 24441 (ii) the offense for which the minor was taken into temporary custody or admitted to
24442 detention; and
- 24443 (iii) if available, the name of the victim if the victim resides in the same school
24444 district as the minor or attends the same school as the minor.
- 24445 (4) After a detention hearing for a minor who is alleged to have committed a serious
24446 offense, the juvenile court shall order a juvenile probation officer to notify a school
24447 official, or a transferee school official, and the appropriate local law enforcement agency
24448 of the juvenile court's decision, including any disposition, order, or no-contact order.
- 24449 (5) If a designated staff member of a detention facility admits a minor to home detention
24450 under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile
24451 court shall order a juvenile probation officer to notify a school official, or a transferee
24452 school official, and the appropriate local law enforcement agency that the minor has
24453 been admitted to home detention.
- 24454 (6)(a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court
24455 shall order a juvenile probation officer to notify a school official, or a transferee
24456 school official, of the adjudication.
- 24457 (b) A notification under this Subsection (6) shall be given to a school official, or a
24458 transferee school official, within three days after the day on which the minor is
24459 adjudicated.
- 24460 (c) A notification under this section shall include:
- 24461 (i) the name of the minor;
- 24462 (ii) the offense for which the minor was adjudicated; and
- 24463 (iii) if available, the name of the victim if the victim:
- 24464 (A) resides in the same school district as the minor; or
- 24465 (B) attends the same school as the minor.

- 24466 (7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court
24467 shall order a juvenile probation officer to notify the appropriate local law enforcement
24468 agency and the school official of the juvenile court's order for formal probation.
- 24469 (8)(a) An employee of the local law enforcement agency, or the school the minor
24470 attends, who discloses a notification under this section is not:
- 24471 (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as
24472 provided in Section 63G-7-202; and
- 24473 (ii) civilly or criminally liable except when the disclosure constitutes a knowing
24474 violation of Section 63G-2-801.
- 24475 (b) An employee of a governmental agency is immune from any criminal liability for
24476 failing to provide the information required by this section, unless the employee fails
24477 to act due to malice, gross negligence, or deliberate indifference to the consequences.
- 24478 (9)(a) A notification under this section shall be classified as a protected record under
24479 Section 63G-2-305.
- 24480 (b) All other records of disclosures under this section are governed by Title 63G,
24481 Chapter 2, Government Records Access and Management Act, and the Family
24482 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
24483 Section 525. Section **80-6-104** is amended to read:
- 24484 **80-6-104 . Data collection on offenses committed by minors -- Reporting**
24485 **requirement.**
- 24486 (1) As used in this section:
- 24487 (a) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
24488 (b) "Firearm-related offense" means a criminal offense involving a firearm.
24489 (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
24490 (d) "School-sponsored activity" means the same as that term is defined in Section
24491 53E-3-516.
- 24492 (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the
24493 following data to the State Commission on Criminal and Juvenile Justice, broken down
24494 by judicial district, for the preceding calendar year:
- 24495 (a) the number of referrals to the juvenile court;
24496 (b) the number of minors diverted to a nonjudicial adjustment;

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- 24497 (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
- 24498 (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
- 24499 (e) the number of minors for whom an information is filed in the juvenile court;
- 24500 (f) the number of minors bound over to the district court by the juvenile court;
- 24501 (g) the number of petitions for offenses committed by minors that were dismissed by the
- 24502 juvenile court;
- 24503 (h) the number of adjudications in the juvenile court for offenses committed by minors;
- 24504 (i) the number of guilty pleas entered into by minors in the juvenile court;
- 24505 (j) the number of dispositions resulting in secure care, community-based placement,
- 24506 formal probation, and intake probation; and
- 24507 (k) for each minor charged in the juvenile court with a firearm-related offense:
- 24508 (i) the minor's age at the time the offense was committed or allegedly committed;
- 24509 (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
- 24510 (iii) whether the minor is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or~~
- 24511 ~~(1)(b)(iii)] 76-11-302(1)(a)(iv) or (1)(b)(iii);~~
- 24512 (iv) the type of offense for which the minor is charged;
- 24513 (v) the outcome of the minor's case in juvenile court, including whether the minor
- 24514 was bound over to the district court or adjudicated by the juvenile court; and
- 24515 (vi) if a disposition was entered by the juvenile court, whether the disposition
- 24516 resulted in secure care, community-based placement, formal probation, or intake
- 24517 probation.
- 24518 (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a
- 24519 case resulting from a firearm-related offense committed, or allegedly committed, by a
- 24520 minor when the minor is found in possession of a firearm while school is in session or
- 24521 during a school-sponsored activity.
- 24522 (4) In collaboration with the Administrative Office of the Courts, the division, and other
- 24523 agencies, the State Commission on Criminal and Juvenile Justice shall collect data for
- 24524 the preceding calendar year on:
- 24525 (a) the length of time that minors spend in the juvenile justice system, including the total
- 24526 amount of time minors spend under juvenile court jurisdiction, on community
- 24527 supervision, and in each out-of-home placement;

- 24528 (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for
24529 whom dispositions are ordered by the juvenile court, including tracking minors into
24530 the adult corrections system;
- 24531 (c) changes in aggregate risk levels from the time minors receive services, are under
24532 supervision, and are in out-of-home placement; and
- 24533 (d) dosages of programming.
- 24534 (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile
24535 Justice shall prepare and submit a written report to the Judiciary Interim Committee and
24536 the Law Enforcement and Criminal Justice Interim Committee that includes:
- 24537 (a) data collected by the State Commission on Criminal and Juvenile Justice under this
24538 section;
- 24539 (b) data collected by the State Board of Education under Section 53E-3-516; and
- 24540 (c) recommendations for legislative action with respect to the data described in this
24541 Subsection (5).
- 24542 (6) After submitting the written report described in Subsection (5), the State Commission
24543 on Criminal and Juvenile Justice may supplement the report at a later time with updated
24544 data and information the State Board of Education collects under Section 53E-3-516.
- 24545 (7) Nothing in this section shall be construed to require the disclosure of information or
24546 data that is classified as controlled, private, or protected under Title 63G, Chapter 2,
24547 Government Records Access and Management Act.
- 24548 Section 526. Section **80-6-302** is amended to read:
- 24549 **80-6-302 . Citation -- Procedure -- Time limits -- Failure to appear.**
- 24550 (1) A petition is not required to commence a proceeding against a minor for an adjudication
24551 of an alleged offense if a citation is issued for an offense for which the juvenile court has
24552 jurisdiction over and the offense listed in the citation is for:
- 24553 (a) a violation of a wildlife law;
- 24554 (b) a violation of a boating law;
- 24555 (c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:
- 24556 (i) for a traffic violation; or
- 24557 (ii) designated as a citable offense by general order of the Board of Juvenile Court
24558 Judges;

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- 24559 (d) a class B misdemeanor or infraction for a traffic violation where the individual is 15
24560 years old or younger at the time the offense was alleged to have occurred;
- 24561 (e) an infraction or misdemeanor designated as a citable offense by a general order of the
24562 Board of Juvenile Court Judges; or
- 24563 (f) a violation of Subsection [~~76-10-105(2)~~] 76-9-1106(3)(b).
- 24564 (2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense
24565 listed in Subsection (1) shall be submitted to the juvenile court within five days of
24566 issuance to a minor.
- 24567 (3) A copy of the citation shall contain:
- 24568 (a) the name and address of the juvenile court before which the minor may be required
24569 to appear;
- 24570 (b) the name of the minor cited;
- 24571 (c) the statute or local ordinance that the minor is alleged to have violated;
- 24572 (d) a brief description of the offense charged;
- 24573 (e) the date, time, and location at which the offense is alleged to have occurred;
- 24574 (f) the date the citation was issued;
- 24575 (g) the name and badge or identification number of the peace officer or public official
24576 who issued the citation;
- 24577 (h) the name of the arresting person if an arrest was made by a private party and the
24578 citation was issued in lieu of taking the minor into temporary custody as provided in
24579 Section 80-6-201;
- 24580 (i) a statement that the minor and the minor's parent or guardian are to appear when
24581 notified by the juvenile court; and
- 24582 (j) the signature of the minor and the minor's parent or guardian, if present, agreeing to
24583 appear at the juvenile court when notified by the court.
- 24584 (4) A copy of the citation shall contain space for the following information to be entered if
24585 known:
- 24586 (a) the minor's address;
- 24587 (b) the minor's date of birth;
- 24588 (c) the name and address of the child's custodial parent or guardian, if different from the
24589 child; and

- 24590 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
24591 this information shall be removed from the documents the minor receives.
- 24592 (5) A citation received by the juvenile court beyond the time designated in Subsection (2)
24593 shall include a written explanation for the delay.
- 24594 (6) An offense alleged to have been committed by an enrolled child on school property, or
24595 related to school attendance, may only be referred to the prosecuting attorney or the
24596 juvenile court in accordance with Section 53G-8-211.
- 24597 (7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation
24598 officer shall make a preliminary inquiry as to whether the minor is eligible for a
24599 nonjudicial adjustment in accordance with Subsection 80-6-303.5(4).
- 24600 (8)(a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a
24601 prosecuting attorney may commence a proceeding against a minor, without filing a
24602 petition, for an adjudication of the offense in the citation only if:
- 24603 (i) the minor is not eligible for, or does not complete, a nonjudicial adjustment; and
 - 24604 (ii) the prosecuting attorney conducts an inquiry under Subsection (9).
- 24605 (b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not
24606 commence a proceeding against an individual for any offense listed in a citation
24607 alleged to have occurred before the individual was 12 years old.
- 24608 (9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief,
24609 that:
- 24610 (a) the charge listed in the citation is supported by probable cause;
 - 24611 (b) admissible evidence will be sufficient to support adjudication beyond a reasonable
24612 doubt; and
 - 24613 (c) the decision to charge is in the interests of justice.
- 24614 (10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall
24615 appear at the juvenile court at a date and time established by the juvenile court.
- 24616 (11) If a minor willfully fails to appear before the juvenile court for a proceeding under
24617 Subsection (8)(a), the juvenile court may:
- 24618 (a) find the minor in contempt of court; and
 - 24619 (b) proceed against the minor as provided in Section 78A-6-353.
- 24620 (12) If a proceeding is commenced under this section, the minor may remit a fine without a

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24621 personal appearance before the juvenile court with the consent of:

24622 (a) the juvenile court; and

24623 (b) if the minor is a child, the parent or guardian of the child cited.

24624 Section 527. Section **80-6-303.5** is amended to read:

24625 **80-6-303.5 . Preliminary inquiry by juvenile probation officer -- Eligibility for**
24626 **nonjudicial adjustment.**

24627 (1) If the juvenile court receives a referral for an offense committed by a minor that is, or
24628 appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual
24629 truant, a juvenile probation officer shall make a preliminary inquiry in accordance with
24630 this section to determine whether the minor is eligible to enter into a nonjudicial
24631 adjustment.

24632 (2) If a minor is referred to the juvenile court for multiple offenses arising from a single
24633 criminal episode, and the minor is eligible under this section for a nonjudicial
24634 adjustment, the juvenile probation officer shall offer the minor one nonjudicial
24635 adjustment for all offenses arising from the single criminal episode.

24636 (3)(a) The juvenile probation officer may:

24637 (i) conduct a validated risk and needs assessment; and

24638 (ii) request that a prosecuting attorney review a referral in accordance with Section
24639 80-6-304.5 if:

24640 (A) the results of the validated risk and needs assessment indicate the minor is
24641 high risk; or

24642 (B) the results of the validated risk and needs assessment indicate the minor is
24643 moderate risk and the referral is for a class A misdemeanor violation under
24644 Sections 76-9-112, 76-12-306, 76-12-307, 76-12-309, or Title 76, Chapter 5,
24645 Offenses Against the Individual~~[, or Title 76, Chapter 9, Part 7, Miscellaneous~~
24646 ~~Provisions]~~.

24647 (b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor
24648 shall:

24649 (i) undergo a drug and alcohol screening;

24650 (ii) if found appropriate by the screening, participate in an assessment; and

24651 (iii) if warranted by the screening and assessment, follow the recommendations of the

- 24652 assessment.
- 24653 (4) Except for an offense that is not eligible under Subsection (8), the juvenile probation
24654 officer shall offer a nonjudicial adjustment to a minor if:
- 24655 (a) the minor:
- 24656 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
- 24657 (ii) has no more than two prior adjudications; and
- 24658 (iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;
- 24659 (b) the minor is referred for an offense that is alleged to have occurred before the minor
24660 was 12 years old; or
- 24661 (c) the minor is referred for being a habitual truant.
- 24662 (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
24663 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a
24664 single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial
24665 adjustment.
- 24666 (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
24667 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a
24668 single criminal episode that resulted in one or more prior adjudications as a single
24669 adjudication.
- 24670 (7) Except for a referral that involves an offense described in Subsection (8), the juvenile
24671 probation officer may offer a nonjudicial adjustment to a minor who does not meet the
24672 criteria described in Subsection (4)(a).
- 24673 (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the
24674 referral involves:
- 24675 (a) an offense alleged to have occurred when the minor was 12 years old or older that is:
- 24676 (i) a felony offense; or
- 24677 (ii) a misdemeanor violation of:
- 24678 (A) Section 41-6a-502, driving under the influence;
- 24679 (B) Section 76-5-107, threat of violence;
- 24680 (C) Section 76-5-107.1, threats against schools;
- 24681 (D) Section 76-5-112, reckless endangerment creating a substantial risk of death
24682 or serious bodily injury;

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- 24683 (E) Section 76-5-206, negligent homicide;
- 24684 (F) Section [~~76-9-702.1~~] 76-5-418, sexual battery;
- 24685 (G) Section [~~76-10-505.5~~] 76-11-204, possession of a dangerous weapon, firearm,
- 24686 or short barreled shotgun on or about school premises;
- 24687 (H) Section [~~76-10-506~~] 76-11-205, threatening with or using a dangerous weapon
- 24688 in fight or quarrel;
- 24689 (I) Section [~~76-10-507~~] 76-11-206, possession of a deadly weapon with criminal
- 24690 intent; or
- 24691 (J) Section [~~76-10-509.4~~] 76-11-209, possession of a dangerous weapon by a
- 24692 minor; or
- 24693 (b) an offense alleged to have occurred before the minor is 12 years old that is a felony
- 24694 violation of:
- 24695 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 24696 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 24697 (iii) Section 76-5-203, murder or attempted murder;
- 24698 (iv) Section 76-5-302, aggravated kidnapping;
- 24699 (v) Section 76-5-405, aggravated sexual assault;
- 24700 (vi) Section 76-6-103, aggravated arson;
- 24701 (vii) Section 76-6-203, aggravated burglary;
- 24702 (viii) Section 76-6-302, aggravated robbery; or
- 24703 (ix) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm.
- 24704 (9) The juvenile probation officer shall request that a prosecuting attorney review a referral
- 24705 if:
- 24706 (a) the referral involves an offense described in Subsection (8); or
- 24707 (b) the minor has a current suspended order for custody under Section 80-6-711.
- 24708 Section 528. Section **80-6-304** is amended to read:
- 24709 **80-6-304 . Nonjudicial adjustments.**
- 24710 (1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:
- 24711 (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the
- 24712 terms established under Subsection (4);
- 24713 (b) pay restitution to any victim;

- 24714 (c) complete community or compensatory service;
- 24715 (d) attend counseling or treatment with an appropriate provider;
- 24716 (e) attend substance abuse treatment or counseling;
- 24717 (f) comply with specified restrictions on activities or associations;
- 24718 (g) attend victim-offender mediation if requested by the victim; and
- 24719 (h) comply with any other reasonable action that is in the interest of the minor, the
- 24720 community, or the victim.
- 24721 (2)(a) Within seven days of receiving a referral that appears to be eligible for a
- 24722 nonjudicial adjustment in accordance with Section 80-6-303.5, the juvenile probation
- 24723 officer shall provide an initial notice to reasonably identifiable and locatable victims
- 24724 of the offense contained in the referral.
- 24725 (b) The victim shall be responsible to provide to the juvenile probation officer upon
- 24726 request:
- 24727 (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and
- 24728 out-of-pocket loss;
- 24729 (ii) documentation and evidence of compensation or reimbursement from an
- 24730 insurance company or an agency of the state, any other state, or the federal
- 24731 government received as a direct result of the crime for injury, loss of earnings, or
- 24732 out-of-pocket loss; and
- 24733 (iii) proof of identification, including home and work address and telephone numbers.
- 24734 (c) The inability, failure, or refusal of the victim to provide all or part of the requested
- 24735 information shall result in the juvenile probation officer determining restitution based
- 24736 on the best information available.
- 24737 (3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial
- 24738 adjustment on an admission of guilt.
- 24739 (4)(a) The juvenile probation officer may not deny a minor an offer of a nonjudicial
- 24740 adjustment due to a minor's inability to pay a financial penalty under Subsection (1).
- 24741 (b) The juvenile probation officer shall base a fee, fine, or the restitution for a
- 24742 nonjudicial adjustment under Subsection (1) upon the ability of the minor's family to
- 24743 pay as determined by a statewide sliding scale developed in accordance with Section
- 24744 63M-7-208.

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- 24745 (5)(a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile
24746 court judge extends the nonjudicial adjustment for an additional 90 days.
- 24747 (b) A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days
24748 permitted under Subsection (5)(a):
- 24749 (i) for a minor who is:
- 24750 (A) offered a nonjudicial adjustment for a sexual offense under Title 76, Chapter
24751 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418,
24752 76-5-419, or 76-5-420, that the minor committed before the minor was 12
24753 years old; or
- 24754 (B) referred to a prosecuting attorney for a sexual offense under Title 76, Chapter
24755 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418,
24756 76-5-419, or 76-5-420, that the minor committed before the minor was 12
24757 years old; and
- 24758 (ii) the judge determines that:
- 24759 (A) the nonjudicial adjustment requires specific treatment for the sexual offense;
- 24760 (B) the treatment cannot be completed within 180 days after the day on which the
24761 minor entered into the nonjudicial adjustment; and
- 24762 (C) the treatment is necessary based on a clinical assessment that is
24763 developmentally appropriate for the minor.
- 24764 (c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection
24765 (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the
24766 specific treatment, but the judge may only grant each extension for 90 days at a time.
- 24767 (6) If a minor violates Section [~~76-10-105~~] 76-9-1106, the minor may be required to pay a
24768 fine or penalty and participate in a court-approved tobacco education program with a
24769 participation fee.
- 24770 Section 529. Section **80-6-305** is amended to read:
- 24771 **80-6-305 . Petition for a delinquency proceeding -- Amending a petition --**
24772 **Continuance.**
- 24773 (1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile
24774 Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an
24775 alleged offense, except as provided in:

- 24776 (a) Subsection (2);
24777 (b) Section 80-6-302;
24778 (c) Section 80-6-502; and
24779 (d) Section 80-6-503.
- 24780 (2) A prosecuting attorney may not file a petition under Subsection (1) against an individual
24781 for an offense alleged to have occurred before the individual was 12 years old, unless:
24782 (a) the individual is alleged to have committed a felony violation of:
24783 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
24784 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
24785 (iii) Section 76-5-203, murder or attempted murder;
24786 (iv) Section 76-5-302, aggravated kidnapping;
24787 (v) Section 76-5-405, aggravated sexual assault;
24788 (vi) Section 76-6-103, aggravated arson;
24789 (vii) Section 76-6-203, aggravated burglary;
24790 (viii) Section 76-6-302, aggravated robbery; or
24791 (ix) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm; or
24792 (b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the
24793 minor:
24794 (i) declines to accept the offer for the nonjudicial adjustment; or
24795 (ii) fails to substantially comply with the conditions agreed upon as part of the
24796 nonjudicial adjustment.
- 24797 (3) A juvenile court may dismiss a petition under this section at any stage of the
24798 proceedings.
- 24799 (4)(a) When evidence is presented during any proceeding in a minor's case that points to
24800 material facts not alleged in the petition, the juvenile court may consider the
24801 additional or different material facts raised by the evidence if the parties consent.
- 24802 (b) The juvenile court, on a motion from any interested party or on the court's own
24803 motion, shall direct that the petition be amended to conform to the evidence.
- 24804 (c) If an amended petition under Subsection (4)(b) results in a substantial departure from
24805 the material facts originally alleged, the juvenile court shall grant a continuance as
24806 justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

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24807 Section 530. Section **80-6-503** is amended to read:

24808 **80-6-503 . Criminal information for a minor in juvenile court -- Extending**
24809 **juvenile court jurisdiction.**

24810 (1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may
24811 file a criminal information in the juvenile court if the minor was a principal actor in an
24812 offense and the information alleges:

24813 (a)(i) the minor was 16 or 17 years old at the time of the offense; and

24814 (ii) the offense for which the minor is being charged is a felony violation of:

24815 (A) Section 76-5-103, aggravated assault resulting in serious bodily injury to
24816 another;

24817 (B) Section 76-5-202, attempted aggravated murder;

24818 (C) Section 76-5-203, attempted murder;

24819 (D) Section 76-5-302, aggravated kidnapping;

24820 (E) Section 76-5-405, aggravated sexual assault;

24821 (F) Section 76-6-103, aggravated arson;

24822 (G) Section 76-6-203, aggravated burglary;

24823 (H) Section 76-6-302, aggravated robbery;

24824 (I) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm; or

24825 (J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I)
24826 involving the use of a dangerous weapon if the offense would be a felony had
24827 an adult committed the offense, and the minor has been previously adjudicated
24828 or convicted of an offense involving the use of a dangerous weapon that would
24829 have been a felony if committed by an adult; or

24830 (b)(i) the minor was 14 or 15 years old at the time of the offense; and

24831 (ii) the offense for which the minor is being charged is a felony violation of:

24832 (A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

24833 (B) Section 76-5-203, murder or attempted murder.

24834 (2) At the time that a prosecuting attorney files an information under this section, a party
24835 may file a motion to extend the juvenile court's continuing jurisdiction in accordance
24836 with Section 80-6-605.

24837 Section 531. Section **80-6-605** is amended to read:

24838 **80-6-605 . Extension of juvenile court jurisdiction -- Procedure.**

24839 (1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a
24840 criminal information under Section 80-6-503, for a felony offense alleged to have been
24841 committed by a minor who is 14 years old or older, either party may file a motion to
24842 extend the juvenile court's continuing jurisdiction over the minor's case until the minor is
24843 25 years old if:

24844 (a) the minor was the principal actor in the offense; and

24845 (b) the petition or information alleges a felony violation of:

24846 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

24847 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

24848 (iii) Section 76-5-203, murder or attempted murder;

24849 (iv) Section 76-5-302, aggravated kidnapping;

24850 (v) Section 76-5-405, aggravated sexual assault;

24851 (vi) Section 76-6-103, aggravated arson;

24852 (vii) Section 76-6-203, aggravated burglary;

24853 (viii) Section 76-6-302, aggravated robbery;

24854 (ix) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm; or

24855 (x)(A) an offense other than the offenses listed in Subsections (1)(b)(i) through

24856 (ix) involving the use of a dangerous weapon that would be a felony if
24857 committed by an adult; and

24858 (B) the minor has been previously adjudicated or convicted of an offense

24859 involving the use of a dangerous weapon that would have been a felony if
24860 committed by an adult.

24861 (2)(a) Notwithstanding Subsection (1), either party may file a motion to extend the
24862 juvenile court's continuing jurisdiction after a determination by the juvenile court
24863 that the minor will not be bound over to the district court under Section 80-6-504.

24864 (3) The juvenile court shall make a determination on a motion under Subsection (1) or (2)
24865 at the time of disposition.

24866 (4) The juvenile court shall extend the continuing jurisdiction over the minor's case until
24867 the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence,
24868 that extending continuing jurisdiction is in the best interest of the minor and the public.

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- 24869 (5) In considering whether it is in the best interest of the minor and the public for the court
24870 to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile
24871 court shall consider and base the juvenile court's decision on:
- 24872 (a) whether the protection of the community requires an extension of jurisdiction beyond
24873 the age of 21;
 - 24874 (b) the extent to which the minor's actions in the offense were committed in an
24875 aggressive, violent, premeditated, or willful manner;
 - 24876 (c) the minor's mental, physical, educational, trauma, and social history; and
 - 24877 (d) the criminal record and previous history of the minor.
- 24878 (6) The amount of weight that each factor in Subsection (5) is given is in the juvenile
24879 court's discretion.
- 24880 (7)(a) The juvenile court may consider written reports and other materials relating to
24881 the minor's mental, physical, educational, trauma, and social history.
- 24882 (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the
24883 juvenile court shall require the person preparing the report or other material to
24884 appear and be subject to both direct and cross-examination.
- 24885 (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present
24886 evidence on the factors described in Subsection (5).
- 24887 Section 532. Section **80-6-608** is amended to read:
- 24888 **80-6-608 . When photographs, fingerprints, or HIV infection tests may be taken**
24889 **-- Distribution -- DNA collection -- Reimbursement.**
- 24890 (1) The division shall take a photograph and fingerprints of a minor who is:
 - 24891 (a) 14 years old or older at the time of the alleged commission of an offense that would
24892 be a felony if the minor were 18 years old or older; and
 - 24893 (b) admitted to a detention facility for the alleged commission of the offense.
 - 24894 (2) The juvenile court shall order a minor who is 14 years old or older at the time that the
24895 minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to
24896 have the minor's fingerprints taken at a detention facility or a local law enforcement
24897 agency if the minor is:
 - 24898 (a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18
24899 years old or older; or

- 24900 (b) adjudicated for an offense that would be a felony if the minor were 18 years old or
24901 older and the minor was not admitted to a detention facility.
- 24902 (3) The juvenile court shall take a photograph of a minor who is:
- 24903 (a) 14 years old or older at the time the minor was alleged to have committed an offense
24904 that would be a felony or a class A misdemeanor if the minor were 18 years old or
24905 older; and
- 24906 (b) adjudicated for the offense described in Subsection (3)(a).
- 24907 (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be
24908 forwarded to the Bureau of Criminal Identification and may be stored by electronic
24909 medium.
- 24910 (5) HIV testing shall be conducted on a minor who is taken into custody after having been
24911 adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, not
24912 including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, upon the request of:
- 24913 (a) the victim;
- 24914 (b) the parent or guardian of a victim who is younger than 14 years old; or
- 24915 (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
24916 Section 26B-6-201.
- 24917 (6) HIV testing shall be conducted on a minor against whom a petition has been filed or a
24918 pickup order has been issued for the commission of any offense under Title 76, Chapter
24919 5, Part 4, Sexual Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or
24920 76-5-420:
- 24921 (a) upon the request of:
- 24922 (i) the victim;
- 24923 (ii) the parent or guardian of a victim who is younger than 14 years old; or
- 24924 (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
24925 Section 26B-6-201; and
- 24926 (b) in which:
- 24927 (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any
24928 other order based upon probable cause regarding the alleged offense; and
- 24929 (ii) the juvenile court has found probable cause to believe that the alleged victim has
24930 been exposed to HIV infection as a result of the alleged offense.

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- 24931 (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger
24932 than 14 years old without the consent of the juvenile court.
- 24933 (8)(a) Photographs taken under this section may be distributed or disbursed to:
- 24934 (i) state and local law enforcement agencies;
- 24935 (ii) the judiciary; and
- 24936 (iii) the division.
- 24937 (b) Fingerprints may be distributed or disbursed to:
- 24938 (i) state and local law enforcement agencies;
- 24939 (ii) the judiciary;
- 24940 (iii) the division; and
- 24941 (iv) agencies participating in the Western Identification Network.
- 24942 (9)(a) A DNA specimen shall be obtained from a minor who is adjudicated by the
24943 juvenile court as described in Subsection 53-10-403(1)(e).
- 24944 (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4),
24945 by:
- 24946 (i) designated employees of the juvenile court; or
- 24947 (ii) if the minor is committed to the division, designated employees of the division.
- 24948 (c) The responsible agency under Subsection (9)(b) shall ensure that an employee
24949 designated to collect the saliva DNA specimens receives appropriate training and that
24950 the specimens are obtained in accordance with accepted protocol.
- 24951 (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
24952 Specimen Restricted Account created in Section 53-10-407.
- 24953 (e) Payment of the reimbursement is second in priority to payments the minor is ordered
24954 to make for restitution under Section 80-6-710 and for treatment ordered under
24955 Section 80-3-403.
- 24956 Section 533. Section **80-6-707** is amended to read:
- 24957 **80-6-707 . Suspension of driving privileges.**
- 24958 (1) This section applies to a minor who:
- 24959 (a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age
24960 eligible for a driver license under Section 53-3-204; and
- 24961 (b) is found by the juvenile court to be in actual physical control of a motor vehicle

- 24962 during the commission of the offense for which the minor is adjudicated.
- 24963 (2)(a) Except as otherwise provided by this section, if a minor is adjudicated for a
- 24964 violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile
- 24965 court may:
- 24966 (i) suspend the minor's driving privileges; and
- 24967 (ii) take possession of the minor's driver license.
- 24968 (b) The juvenile court may order any other eligible disposition under Subsection (1),
- 24969 except for a disposition under Section 80-6-703 or 80-6-705.
- 24970 (c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):
- 24971 (i) the juvenile court shall prepare and send the order to the Driver License Division
- 24972 of the Department of Public Safety; and
- 24973 (ii) the minor's license shall be suspended under Section 53-3-219.
- 24974 (3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:
- 24975 (a)(i) the violation is the minor's first violation of:
- 24976 (A) Section 32B-4-409;
- 24977 (B) Section 32B-4-410;
- 24978 (C) Section 58-37-8;
- 24979 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 24980 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 24981 (F) Subsection 76-5-102.1(2)(b);
- 24982 (G) Subsection 76-5-207(2)(b); or
- 24983 (H) Subsection [~~76-9-701(1)~~] 76-9-110(2); and
- 24984 (ii)(A) the minor completes an educational series as defined in Section 41-6a-501;
- 24985 or
- 24986 (B) the minor demonstrates substantial progress in substance use disorder
- 24987 treatment; or
- 24988 (b)(i) the violation is the minor's second or subsequent violation of:
- 24989 (A) Section 32B-4-409;
- 24990 (B) Section 32B-4-410;
- 24991 (C) Section 58-37-8;
- 24992 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

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- 24993 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 24994 (F) Subsection 76-5-102.1(2)(b);
- 24995 (G) Subsection 76-5-207(2)(b); or
- 24996 (H) Subsection [~~76-9-701(1)~~] 76-9-110(2);
- 24997 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
- 24998 demonstrated substantial progress in substance use disorder treatment; and
- 24999 (iii)(A) the minor is 18 years old or older and provides a sworn statement to the
- 25000 juvenile court that the minor has not unlawfully consumed alcohol or drugs for
- 25001 at least a one-year consecutive period during the suspension period imposed
- 25002 under Section 53-3-219; or
- 25003 (B) the minor is under 18 years old and the minor's parent or guardian provides an
- 25004 affidavit or sworn statement to the juvenile court certifying that to the parent or
- 25005 guardian's knowledge the minor has not unlawfully consumed alcohol or drugs
- 25006 for at least a one-year consecutive period during the suspension period imposed
- 25007 under Section 53-3-219.
- 25008 (4)(a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as
- 25009 defined in Section 32B-4-411:
- 25010 (i) the juvenile court may forward a record of adjudication to the Department of
- 25011 Public Safety for a first or subsequent violation; and
- 25012 (ii) the minor's driving privileges will be suspended:
- 25013 (A) for a period of at least one year under Section 53-3-220 for a first conviction
- 25014 for a violation of Section 32B-4-411; or
- 25015 (B) for a period of two years for a second or subsequent conviction for a violation
- 25016 of Section 32B-4-411.
- 25017 (b) The juvenile court may reduce the suspension period imposed under Subsection
- 25018 (4)(a)(ii)(A) if:
- 25019 (i) the violation is the minor's first violation of Section 32B-4-411; and
- 25020 (ii)(A) the minor completes an educational series as defined in Section 41-6a-501;
- 25021 or
- 25022 (B) the minor demonstrates substantial progress in substance use disorder
- 25023 treatment.

- 25024 (c) The juvenile court may reduce the suspension period imposed under Subsection
25025 (4)(a)(ii)(B) if:
25026 (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;
25027 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
25028 demonstrated substantial progress in substance use disorder treatment; and
25029 (iii)(A) the minor is 18 years old or older and provides a sworn statement to the
25030 court that the minor has not unlawfully consumed alcohol or drugs for at least a
25031 one-year consecutive period during the suspension period imposed under
25032 Subsection (4)(a)(ii)(B); or
25033 (B) the minor is under 18 years old and has the minor's parent or guardian provide
25034 an affidavit or sworn statement to the court certifying that to the parent's or
25035 guardian's knowledge the minor has not unlawfully consumed alcohol or drugs
25036 for at least a one-year consecutive period during the suspension period imposed
25037 under Subsection (4)(a)(ii)(B).

- 25038 (5) When the Department of Public Safety receives the arrest or conviction record of a
25039 minor for a driving offense committed while the minor's license is suspended under this
25040 section, the Department of Public Safety shall extend the suspension for a like period of
25041 time.

25042 Section 534. Section **80-6-712** is amended to read:

25043 **80-6-712 . Time periods for supervision of probation or placement --**
25044 **Termination of continuing jurisdiction.**

- 25045 (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile
25046 court shall establish a period of time for supervision for the minor that is:

- 25047 (a) if the minor is placed on intake probation, no more than three months; or
25048 (b) if the minor is placed on formal probation, from four to six months, but may not
25049 exceed six months.

- 25050 (2)(a) If the juvenile court commits a minor to the division under Section 80-6-703, and
25051 the minor's case is under the jurisdiction of the court, the juvenile court shall
25052 establish:

- 25053 (i) for a minor placed out of the home, a period of custody from three to six months,
25054 but may not exceed six months; and

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- 25055 (ii) for aftercare services if the minor was placed out of the home, a period of
25056 supervision from three to four months, but may not exceed four months.
- 25057 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
25058 (i) in the home of a qualifying relative or guardian;
25059 (ii) at an independent living program contracted or operated by the division; or
25060 (iii) in a family-based setting with approval by the director or the director's designee
25061 if the minor does not qualify for an independent living program due to age,
25062 disability, or another reason or the minor cannot be placed with a qualifying
25063 relative or guardian.
- 25064 (3) If the juvenile court orders a minor to secure care, the authority shall:
25065 (a) have jurisdiction over the minor's case; and
25066 (b) apply the provisions of Part 8, Commitment and Parole.
- 25067 (4)(a) The juvenile court shall terminate continuing jurisdiction over a minor's case at
25068 the end of the time period described in Subsection (1) for probation or Subsection (2)
25069 for commitment to the division, unless:
25070 (i) termination would interrupt the completion of the treatment program determined
25071 to be necessary by the results of a validated risk and needs assessment under
25072 Section 80-6-606;
25073 (ii) the minor commits a new misdemeanor or felony offense;
25074 (iii) the minor has not completed community or compensatory service hours;
25075 (iv) there is an outstanding fine; or
25076 (v) the minor has not paid restitution in full.
- 25077 (b) The juvenile court shall determine whether a minor has completed a treatment
25078 program under Subsection (4)(a)(i) by considering:
25079 (i) the recommendations of the licensed service provider for the treatment program;
25080 (ii) the minor's record in the treatment program; and
25081 (iii) the minor's completion of the goals of the treatment program.
- 25082 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
25083 exists the juvenile court may extend supervision for the time needed to address the
25084 specific circumstance.
- 25085 (6) If the juvenile court extends supervision solely on the ground that the minor has not yet

- 25086 completed community or compensatory service hours under Subsection (4)(a)(iii), the
25087 juvenile court may only extend supervision:
- 25088 (a) one time for no more than three months; and
25089 (b) as intake probation.
- 25090 (7)(a) If the juvenile court extends jurisdiction solely on the ground that the minor has
25091 not paid restitution in full as described in Subsection (4)(a)(v):
- 25092 (i) the juvenile court may only:
- 25093 (A) extend jurisdiction up to four times for no more than three months at a time;
25094 (B) consider the efforts of the minor to pay restitution in full when determining
25095 whether to extend jurisdiction under Subsection (7)(a)(i); and
25096 (C) make orders concerning the payment of restitution during the period for which
25097 jurisdiction is extended;
- 25098 (ii) the juvenile court shall terminate any intake probation or formal probation of the
25099 minor; and
- 25100 (iii) a designated staff member of the juvenile court shall submit a report to the
25101 juvenile court every three months regarding the minor's efforts to pay restitution.
- 25102 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
25103 juvenile court shall:
- 25104 (i) terminate jurisdiction over the minor's case; and
25105 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
25106 Subsection 80-6-709(8).
- 25107 (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds
25108 for the extension and the length of any extension shall be recorded in the court records
25109 and tracked in the data system used by the Administrative Office of the Courts and the
25110 division.
- 25111 (9) If a minor leaves supervision without authorization for more than 24 hours, the
25112 supervision period for the minor shall toll until the minor returns.
- 25113 (10) This section does not apply to any minor adjudicated under this chapter for:
- 25114 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
25115 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
25116 (c) Section 76-5-203, murder or attempted murder;

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- 25117 (d) Section 76-5-205, manslaughter;
- 25118 (e) Section 76-5-206, negligent homicide;
- 25119 (f) Section 76-5-207, automobile homicide;
- 25120 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
- 25121 device while operating a motor vehicle;
- 25122 (h) Section 76-5-208, child abuse homicide;
- 25123 (i) Section 76-5-209, homicide by assault;
- 25124 (j) Section 76-5-302, aggravated kidnapping;
- 25125 (k) Section 76-5-405, aggravated sexual assault;
- 25126 (l) a felony violation of Section 76-6-103, aggravated arson;
- 25127 (m) Section 76-6-203, aggravated burglary;
- 25128 (n) Section 76-6-302, aggravated robbery;
- 25129 (o) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm;
- 25130 (p)(i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 25131 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
- 25132 a felony; and
- 25133 (ii) the minor has been previously adjudicated or convicted of an offense involving
- 25134 the use of a dangerous weapon; or
- 25135 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 25136 the minor has been previously committed to the division for secure care.
- 25137 Section 535. Section **80-6-804** is amended to read:
- 25138 **80-6-804 . Review and termination of secure care.**
- 25139 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 25140 offender shall appear before the authority within 45 days after the day on which the
- 25141 juvenile offender is ordered to secure care for review of a treatment plan and to establish
- 25142 parole release guidelines.
- 25143 (2)(a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is
- 25144 ordered to secure care under Section 80-6-705, the authority shall set a presumptive
- 25145 term of secure care for the juvenile offender from three to six months, but the
- 25146 presumptive term may not exceed six months.
- 25147 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the

- 25148 authority may immediately release the juvenile offender on parole if there is a
25149 treatment program available for the juvenile offender in a community-based setting.
- 25150 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile
25151 offender on parole at the end of the presumptive term of secure care unless:
- 25152 (i) termination would interrupt the completion of a treatment program determined to
25153 be necessary by the results of a validated risk and needs assessment under Section
25154 80-6-606; or
- 25155 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 25156 (d) The authority shall determine whether a juvenile offender has completed a treatment
25157 program under Subsection (2)(c)(i) by considering:
- 25158 (i) the recommendations of the licensed service provider for the treatment program;
25159 (ii) the juvenile offender's record in the treatment program; and
25160 (iii) the juvenile offender's completion of the goals of the treatment program.
- 25161 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
25162 secure care and delay parole release for the time needed to address the specific
25163 circumstance if one of the circumstances under Subsection (2)(c) exists.
- 25164 (f) The authority shall:
- 25165 (i) record the length of the extension and the grounds for the extension; and
25166 (ii) report annually the length and grounds of extension to the commission.
- 25167 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
25168 juvenile court and the division.
- 25169 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
25170 authority may not:
- 25171 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)
25172 that would result in a term of secure care that exceeds a term of incarceration for
25173 an adult under Section 76-3-204 for the same misdemeanor offense; or
- 25174 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)
25175 if the extension would result in a term of secure care that exceeds the term of
25176 incarceration for an adult under Section 76-3-204 for the same misdemeanor
25177 offense.
- 25178 (3)(a) If a juvenile offender is ordered to secure care, the authority shall set a

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- 25179 presumptive term of parole supervision, including aftercare services, from three to
25180 four months, but the presumptive term may not exceed four months.
- 25181 (b) If the authority determines that a juvenile offender is unable to return home
25182 immediately upon release, the juvenile offender may serve the term of parole:
25183 (i) in the home of a qualifying relative or guardian;
25184 (ii) at an independent living program contracted or operated by the division; or
25185 (iii) in a family-based setting with approval by the director or the director's designee
25186 if the minor does not qualify for an independent living program due to age,
25187 disability, or another reason or the minor cannot be placed with a qualifying
25188 relative or guardian.
- 25189 (c) The authority shall release a juvenile offender from parole and terminate the
25190 authority's jurisdiction at the end of the presumptive term of parole, unless:
25191 (i) termination would interrupt the completion of a treatment program that is
25192 determined to be necessary by the results of a validated risk and needs assessment
25193 under Section 80-6-606;
25194 (ii) the juvenile offender commits a new misdemeanor or felony offense; or
25195 (iii) restitution has not been completed.
- 25196 (d) The authority shall determine whether a juvenile offender has completed a treatment
25197 program under Subsection (3)(c)(i) by considering:
25198 (i) the recommendations of the licensed service provider;
25199 (ii) the juvenile offender's record in the treatment program; and
25200 (iii) the juvenile offender's completion of the goals of the treatment program.
- 25201 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
25202 parole release only for the time needed to address the specific circumstance.
- 25203 (f) The authority shall:
25204 (i) record the grounds for extension of the presumptive length of parole and the
25205 length of the extension; and
25206 (ii) report annually the extension and the length of the extension to the commission.
- 25207 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
25208 juvenile court and the division.
- 25209 (h) If a juvenile offender leaves parole supervision without authorization for more than

- 25210 24 hours, the term of parole shall toll until the juvenile offender returns.
- 25211 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
- 25212 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 25213 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 25214 (c) Section 76-5-203, murder or attempted murder;
- 25215 (d) Section 76-5-205, manslaughter;
- 25216 (e) Section 76-5-206, negligent homicide;
- 25217 (f) Section 76-5-207, automobile homicide;
- 25218 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
- 25219 device while operating a motor vehicle;
- 25220 (h) Section 76-5-208, child abuse homicide;
- 25221 (i) Section 76-5-209, homicide by assault;
- 25222 (j) Section 76-5-302, aggravated kidnapping;
- 25223 (k) Section 76-5-405, aggravated sexual assault;
- 25224 (l) a felony violation of Section 76-6-103, aggravated arson;
- 25225 (m) Section 76-6-203, aggravated burglary;
- 25226 (n) Section 76-6-302, aggravated robbery;
- 25227 (o) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm;
- 25228 (p)(i) an offense other than an offense listed in Subsections (4)(a) through (o)
- 25229 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
- 25230 a felony; and
- 25231 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
- 25232 involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
- 25233 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
- 25234 juvenile offender has been previously ordered to secure care.
- 25235 Section 536. Section **80-6-1002** is amended to read:
- 25236 **80-6-1002 . Vacatur of an adjudication.**
- 25237 (1)(a) An individual who has been adjudicated for an offense by the juvenile court may
- 25238 petition the juvenile court for vacatur of the adjudication if the adjudication was for a
- 25239 violation of:
- 25240 (i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the

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- 25241 human trafficking for labor while subject to force, fraud, or coercion;
- 25242 (ii) Section ~~[76-10-1302]~~ 76-5d-202, prostitution; or
- 25243 (iii) Section ~~[76-10-1304]~~ 76-5d-206, aiding prostitution~~[; or]~~ .
- 25244 ~~[(iv) Section 76-10-1313,~~
- 25246 ~~sexual solicitation.]~~
- 25247 (b) The petitioner shall include in the petition the relevant juvenile court incident
- 25248 number and any agencies known or alleged to have any records related to the offense
- 25249 for which vacatur is being sought.
- 25250 (c) The petitioner shall include with the petition the original criminal history report
- 25251 obtained from the Bureau of Criminal Identification in accordance with the
- 25252 provisions of Section 53-10-108.
- 25253 (d) The petitioner shall send a copy of the petition to the prosecuting attorney.
- 25254 (2)(a) Upon the filing of a petition, the juvenile court shall:
- 25255 (i) set a date for a hearing; and
- 25256 (ii) at least 30 days before the day on which the hearing on the petition is scheduled,
- 25257 notify the prosecuting attorney and any affected agency identified in the juvenile
- 25258 record:
- 25259 (A) that a petition has been filed; and
- 25260 (B) of the date of the hearing.
- 25261 (b)(i) The juvenile court shall provide a victim with the opportunity to request notice
- 25262 of a petition for vacatur.
- 25263 (ii) At least 30 days before the day on which the hearing is scheduled, a victim shall
- 25264 receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or
- 25265 the victim's next of kin or authorized representative if the victim is a child or an
- 25266 individual who is incapacitated or deceased, submits a written and signed request
- 25267 for notice to the court in the judicial district in which the crime occurred or
- 25268 judgment was entered.
- 25269 (iii) The notice shall include a copy of the petition and statutes and rules applicable to
- 25270 the petition.
- 25271 (c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other
- 25272 person who may have relevant information about the petitioner may testify.

- 25273 (3)(a) In deciding whether to grant a petition for vacatur of an adjudication of an
25274 offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile
25275 court shall consider whether the petitioner acted subject to force, fraud, or coercion at
25276 the time of the conduct giving rise to the adjudication.
- 25277 (b) If the juvenile court finds by a preponderance of the evidence that the petitioner was
25278 subject to force, fraud, or coercion at the time of the conduct giving rise to the
25279 adjudication, the juvenile court shall grant vacatur of the adjudication.
- 25280 (c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny
25281 vacatur of the adjudication.
- 25282 (4) If the petition seeks to vacate an adjudication of an offense described in Subsection
25283 (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the
25284 adjudication unless the petitioner acted as a purchaser of any sexual activity.
- 25285 (5)(a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of
25286 an adjudication for an offense described in Subsection (1)(a), the juvenile court shall
25287 order expungement of all records in the petitioner's juvenile record pertaining to the
25288 incident identified in the petition, including relevant related records contained in the
25289 Management Information System and the Licensing Information System.
- 25290 (b) The juvenile court may not order expungement of any record in the petitioner's
25291 juvenile record that contains an adjudication for a violation of:
- 25292 (i) Section 76-5-202, aggravated murder; or
25293 (ii) Section 76-5-203, murder.
- 25294 (6)(a) The petitioner shall be responsible for service of the vacatur and expungement
25295 order to all affected state, county, and local entities, agencies, and officials.
- 25296 (b) To avoid destruction or expungement of the records in whole or in part, the agency
25297 or entity receiving the vacatur and expungement order shall only expunge all
25298 references to the petitioner's name in the records pertaining to the relevant
25299 adjudicated juvenile court incident.
- 25300 (7)(a) Upon entry of a vacatur and expungement order under this section:
- 25301 (i) the proceedings in the incident identified in the petition are considered never to
25302 have occurred; and
25303 (ii) the petitioner may reply to an inquiry on the matter as though the proceedings

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25304 never occurred.

25305 (b) Upon petition, any record expunged under this section may only be released to or
25306 viewed by:

25307 (i) the individual who is the subject of the record; or

25308 (ii) a person named in the petition of vacatur.

25309 Section 537. Section **80-6-1004.1** is amended to read:

25310 **80-6-1004.1 . Petition to expunge adjudication -- Hearing and notice -- Waiver --**
25311 **Order.**

25312 (1) An individual may petition the juvenile court for an order to expunge the individual's
25313 juvenile record if:

25314 (a) the individual was adjudicated for an offense in the juvenile court;

25315 (b) the individual has reached 18 years old; and

25316 (c) at least one year has passed from the day on which:

25317 (i) the juvenile court's continuing jurisdiction was terminated; or

25318 (ii) if the individual was committed to secure care, the individual was unconditionally
25319 released from the custody of the division.

25320 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1),
25321 the petition shall include a criminal history report obtained from the Bureau of Criminal
25322 Identification in accordance with Section 53-10-108.

25323 (3) If the juvenile court finds and states on the record the reason why the waiver is
25324 appropriate, the juvenile court may waive:

25325 (a) the age requirement under Subsection (1)(b) for a petition; or

25326 (b) the one-year requirement under Subsection (1)(c) for a petition.

25327 (4)(a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court
25328 shall:

25329 (i) set a date for a hearing; and

25330 (ii) at least 30 days before the day on which the hearing on the petition is scheduled,
25331 notify the prosecuting attorney and any affected agency identified in the
25332 petitioner's juvenile record:

25333 (A) that the petition has been filed; and

25334 (B) of the date of the hearing.

- 25335 (b)(i) The juvenile court shall provide a victim with the opportunity to request notice
25336 of a petition described in Subsection (1).
- 25337 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive
25338 notice of the petition at least 30 days before the day on which the hearing is
25339 scheduled if, before the day on which an expungement order is made, the victim,
25340 or the victim's next of kin or authorized representative if the victim is a child or an
25341 individual who is incapacitated or deceased, submits a written and signed request
25342 for notice to the juvenile court in the judicial district in which the offense occurred
25343 or judgment is entered.
- 25344 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition
25345 and any statutes and rules applicable to the petition.
- 25346 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who may
25347 have relevant information about the petitioner may testify.
- 25348 (d) The juvenile court may waive the hearing for the petition if:
25349 (i)(A) there is no victim; or
25350 (B) if there is a victim, the victim agrees to the waiver; and
25351 (ii) the prosecuting attorney agrees to the waiver.
- 25352 (5)(a) Except as provided in Subsection (6), the juvenile court may grant a petition
25353 described in Subsection (1) and order expungement of the petitioner's juvenile record
25354 if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the
25355 court in accordance with Subsection (5)(b).
- 25356 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile court
25357 shall consider:
- 25358 (i) whether expungement of the petitioner's juvenile record is in the best interest of
25359 the petitioner;
- 25360 (ii) the petitioner's response to programs and treatment;
- 25361 (iii) the nature and seriousness of the conduct for which the petitioner was
25362 adjudicated;
- 25363 (iv) the petitioner's behavior subsequent to adjudication;
- 25364 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;
25365 and

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- 25366 (vi) if the petitioner is a restricted person under Subsection [76-10-503(1)(a)(iv) or
25367 ~~(b)(iii)] 76-11-302(1)(a)(iv) or (1)(b)(iii):~~
- 25368 (A) whether the offense for which the petitioner is a restricted person was
25369 committed with a weapon;
- 25370 (B) whether expungement of the petitioner's juvenile record poses an unreasonable
25371 risk to public safety; and
- 25372 (C) the amount of time that has passed since the adjudication of the offense for
25373 which the petitioner is a restricted person.
- 25374 (6) The juvenile court may not grant a petition described in Subsection (1) and order
25375 expungement of the petitioner's juvenile record if:
- 25376 (a) the petitioner has been convicted of a violent felony within five years before the day
25377 on which the petition for expungement is filed;
- 25378 (b) there are delinquency or criminal proceedings pending against the petitioner;
- 25379 (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court
25380 for an adjudication in the petitioner's juvenile record;
- 25381 (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial
25382 adjustment in the petitioner's juvenile record; or
- 25383 (e) the petitioner's juvenile record contains an adjudication for a violation of:
- 25384 (i) Section 76-5-202, aggravated murder; or
25385 (ii) Section 76-5-203, murder.
- 25386 Section 538. Section **80-6-1004.5** is amended to read:
- 25387 **80-6-1004.5 . Automatic expungement of successful nonjudicial adjustment --**
25388 **Effect of successful nonjudicial adjustment.**
- 25389 (1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition,
25390 an order to expunge an individual's juvenile record if:
- 25391 (a) the individual has reached 18 years old;
- 25392 (b) the individual's juvenile record consists solely of nonjudicial adjustments;
- 25393 (c) the individual has successfully completed each nonjudicial adjustment; and
25394 (d) all nonjudicial adjustments were completed on or after October 1, 2023.
- 25395 (2) An individual's juvenile record is not eligible for expungement under Subsection (1) if
25396 the individual's juvenile record contains a nonjudicial adjustment for a violation of:

- 25397 (a) Section 41-6a-502, driving under the influence;
- 25398 (b) Section 76-5-112, reckless endangerment creating a substantial risk of death or
- 25399 serious bodily injury;
- 25400 (c) Section 76-5-206, negligent homicide;
- 25401 (d) Section [~~76-9-702.1~~] 76-5-418, sexual battery;
- 25402 (e) Section [~~76-10-505.5~~] 76-11-204, possession of a dangerous weapon, firearm, or
- 25403 short barreled shotgun on or about school premises; or
- 25404 (f) Section [~~76-10-509.4~~] 76-11-209, possession of a dangerous weapon by a minor.
- 25405 (3) If an individual's juvenile record consists solely of nonjudicial adjustments that were
- 25406 completed before October 1, 2023:
- 25407 (a) any nonjudicial adjustment in the individual's juvenile record is considered to never
- 25408 have occurred if:
- 25409 (i) the individual has reached 18 years old;
- 25410 (ii) the individual has satisfied restitution that was a condition of any nonjudicial
- 25411 adjustment in the individual's juvenile record; and
- 25412 (iii) the nonjudicial adjustment was for an offense that is not an offense described in
- 25413 Subsection (2); and
- 25414 (b) the individual may reply to any inquiry about the nonjudicial adjustment as though
- 25415 there never was a nonjudicial adjustment.
- 25416 Section 539. Section **81-9-202** is amended to read:
- 25417 **81-9-202 . Advisory guidelines for a custody and parent-time arrangement.**
- 25418 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304,
- 25419 the following advisory guidelines are suggested to govern a custody and parent-time
- 25420 arrangement between parents.
- 25421 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a
- 25422 court-imposed solution.
- 25423 (3) A parent-time schedule shall be used to maximize the continuity and stability of the
- 25424 minor child's life.
- 25425 (4) Each parent shall give special consideration to make the minor child available to attend
- 25426 family functions including funerals, weddings, family reunions, religious holidays,
- 25427 important ceremonies, and other significant events in the life of the minor child or in the

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- 25428 life of either parent which may inadvertently conflict with the parent-time schedule.
- 25429 (5)(a) The court shall determine the responsibility for the pick up, delivery, and return
- 25430 of the minor child when the parent-time order is entered.
- 25431 (b) The court may change the responsibility described in Subsection (5)(a) at any time a
- 25432 subsequent modification is made to the parent-time order.
- 25433 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
- 25434 (i) have the minor child ready for parent-time at the time the minor child is to be
- 25435 picked up ; and
- 25436 (ii) be present at the custodial home or make reasonable alternate arrangements to
- 25437 receive the minor child at the time the minor child is returned.
- 25438 (d) If the custodial parent will be transporting the minor child, the noncustodial parent
- 25439 shall:
- 25440 (i) be at the appointed place at the time the noncustodial parent is to receive the
- 25441 minor child; and
- 25442 (ii) have the minor child ready to be picked up at the appointed time and place or
- 25443 have made reasonable alternate arrangements for the custodial parent to pick up
- 25444 the minor child.
- 25445 (6) A parent may not interrupt regular school hours for a school-age minor child for the
- 25446 exercise of parent-time.
- 25447 (7) The court may:
- 25448 (a) make alterations in the parent-time schedule to reasonably accommodate the work
- 25449 schedule of both parents; and
- 25450 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the
- 25451 standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 25452 (8) The court may make alterations in the parent-time schedule to reasonably accommodate
- 25453 the distance between the parties and the expense of exercising parent-time.
- 25454 (9) A parent may not withhold parent-time or child support due to the other parent's failure
- 25455 to comply with a court-ordered parent-time schedule.
- 25456 (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of
- 25457 receiving notice of all significant school, social, sports, and community functions in
- 25458 which the minor child is participating or being honored.

- 25459 (b) The noncustodial parent is entitled to attend and participate fully in the functions
25460 described in Subsection (10)(a).
- 25461 (c) The noncustodial parent shall have access directly to all school reports including
25462 preschool and daycare reports and medical records.
- 25463 (d) A parent shall immediately notify the other parent in the event of a medical
25464 emergency.
- 25465 (11) Each parent shall provide the other with the parent's current address and telephone
25466 number, email address, and other virtual parent-time access information within 24 hours
25467 of any change.
- 25468 (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable
25469 and uncensored communications with the minor child, in the form of mail privileges
25470 and virtual parent-time if the equipment is reasonably available.
- 25471 (b) If the parents cannot agree on whether the equipment is reasonably available, the
25472 court shall decide whether the equipment for virtual parent-time is reasonably
25473 availableby taking into consideration:
- 25474 (i) the best interests of the minor child;
25475 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
25476 (iii) any other factors the court considers material.
- 25477 (13)(a) Parental care is presumed to be better care for the minor child than surrogate
25478 care.
- 25479 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
25480 parent, if willing and able to transport the minor child, to provide the child care.
- 25481 (c) Child care arrangements existing during the marriage are preferred as are child care
25482 arrangements with nominal or no charge.
- 25483 (14) Each parent shall:
- 25484 (a) provide all surrogate care providers with the name, current address, and telephone
25485 number of the other parent; and
- 25486 (b) provide the noncustodial parent with the name, current address, and telephone
25487 number of all surrogate care providers unless the court for good cause orders
25488 otherwise.
- 25489 (15)(a) Each parent is entitled to an equal division of major religious holidays

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- 25490 celebrated by the parents.
- 25491 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
- 25492 shall have the right to be together with the minor child on the religious holiday.
- 25493 (16) If the minor child is on a different parent-time schedule than a sibling, based on
- 25494 Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for
- 25495 parent-time with all the minor children so that parent-time is uniform between school
- 25496 aged and nonschool aged children, is appropriate.
- 25497 (17)(a) When one or both parents are servicemembers or contemplating joining a
- 25498 uniformed service, the parents should resolve issues of custodial responsibility in the
- 25499 event of deployment as soon as practicable through reaching a voluntary agreement
- 25500 pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.
- 25501 (b) Service members shall ensure their family care plan reflects orders and agreements
- 25502 entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents
- 25503 Custody, Parent-time, and Visitation Act.
- 25504 (18) A parent shall immediately notify the other parent if:
- 25505 (a) the parent resides with an individual or provides an individual with access to the
- 25506 minor child; and
- 25507 (b) the parent knows that the individual:
- 25508 (i) is required to register as a sex offender or a kidnap offender for an offense against
- 25509 a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 25510 (ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child
- 25511 Abuse Offender Registry; or
- 25512 (iii) has been convicted of:
- 25513 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
- 25514 76-5-114, or 76-5-208;
- 25515 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
- 25516 Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;
- 25517 (C) an offense for kidnapping or human trafficking of a minor child under Title
- 25518 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 25519 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
- 25520 Sexual Exploitation Act; or

25521 (E) an offense that is substantially similar to an offense under Subsections
25522 (18)(b)(iii)(A) through (D).

25523 (19)(a) For emergency purposes, whenever the minor child travels with a parent, the
25524 parent shall provide the following information to the other parent:

- 25525 (i) an itinerary of travel dates;
- 25526 (ii) destinations;
- 25527 (iii) places where the minor child or traveling parent can be reached; and
- 25528 (iv) the name and telephone number of an available third person who would be
25529 knowledgeable of the minor child's location.

25530 (b) Unchaperoned travel of a minor child under the age of five years is not
25531 recommended.

25532 Section 540. Section **81-9-204** is amended to read:

25533 **81-9-204 . Custody and parent-time of a minor child -- Custody factors --**

25534 **Preferences.**

25535 (1) In a proceeding between parents in which the custody and parent-time of a minor child
25536 is at issue, the court shall consider the best interests of the minor child in determining
25537 any form of custody and parent-time.

25538 (2) The court shall determine whether an order for custody or parent-time is in the best
25539 interests of the minor child by a preponderance of the evidence.

25540 (3) In determining any form of custody and parent-time under Subsection (1), the court
25541 shall consider:

25542 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic
25543 violence, physical abuse, or sexual abuse involving the minor child, the parent, or a
25544 household member of the parent;

25545 (b) whether the parent has intentionally exposed the minor child to:

25546 (i) [-]pornography; or[-]

25547 (ii) material harmful to minors, as "material" and "harmful to minors" are defined in
25548 Section [~~76-10-120+~~] 76-5c-101; and

25549 (c) whether custody and parent-time would endanger the minor child's health or physical
25550 or psychological safety.

25551 (4) In determining the form of custody and parent-time that is in the best interests of the

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- 25552 minor child, the court may consider, among other factors the court finds relevant, the
25553 following for each parent:
- 25554 (a) evidence of psychological maltreatment;
 - 25555 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the
25556 developmental needs of the minor child, including the minor child's:
 - 25557 (i) physical needs;
 - 25558 (ii) emotional needs;
 - 25559 (iii) educational needs;
 - 25560 (iv) medical needs; and
 - 25561 (v) any special needs;
 - 25562 (c) the parent's capacity and willingness to function as a parent, including:
 - 25563 (i) parenting skills;
 - 25564 (ii) co-parenting skills, including:
 - 25565 (A) ability to appropriately communicate with the other parent;
 - 25566 (B) ability to encourage the sharing of love and affection; and
 - 25567 (C) willingness to allow frequent and continuous contact between the minor child
25568 and the other parent, except that, if the court determines that the parent is
25569 acting to protect the minor child from domestic violence, neglect, or abuse, the
25570 parent's protective actions may be taken into consideration; and
 - 25571 (iii) ability to provide personal care rather than surrogate care;
 - 25572 (d) the past conduct and demonstrated moral character of the parent as described in
25573 Subsection (9);
 - 25574 (e) the emotional stability of the parent;
 - 25575 (f) the parent's inability to function as a parent because of drug abuse, excessive
25576 drinking, or other causes;
 - 25577 (g) the parent's reason for having relinquished custody or parent-time in the past;
 - 25578 (h) duration and depth of desire for custody or parent-time;
 - 25579 (i) the parent's religious compatibility with the minor child;
 - 25580 (j) the parent's financial responsibility;
 - 25581 (k) the child's interaction and relationship with step-parents, extended family members
25582 of other individuals who may significantly affect the minor child's best interests;

- 25583 (l) who has been the primary caretaker of the minor child;
- 25584 (m) previous parenting arrangements in which the minor child has been happy and
- 25585 well-adjusted in the home, school, and community;
- 25586 (n) the relative benefit of keeping siblings together;
- 25587 (o) the stated wishes and concerns of the minor child, taking into consideration the
- 25588 minor child's cognitive ability and emotional maturity;
- 25589 (p) the relative strength of the minor child's bond with the parent, meaning the depth,
- 25590 quality, and nature of the relationship between the parent and the minor child; and
- 25591 (q) any other factor the court finds relevant.
- 25592 (5)(a) A minor child may not be required by either party to testify unless the trier of fact
- 25593 determines that extenuating circumstances exist that would necessitate the testimony
- 25594 of the minor child be heard and there is no other reasonable method to present the
- 25595 minor child's testimony.
- 25596 (b)(i) The court may inquire and take into consideration the minor child's desires
- 25597 regarding future custody or parent-time schedules, but the expressed desires are
- 25598 not controlling and the court may determine the minor child's custody or
- 25599 parent-time otherwise.
- 25600 (ii) The desires of a minor child who is 14 years old or older shall be given added
- 25601 weight, but is not the single controlling factor.
- 25602 (c)(i) If an interview with a minor child is conducted by the court in accordance with
- 25603 Subsection (5)(b), the interview shall be conducted by the court in camera.
- 25604 (ii) The prior consent of the parties may be obtained but is not necessary if the court
- 25605 finds that an interview with a minor child is the only method to ascertain the
- 25606 minor child's desires regarding custody.
- 25607 (6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a
- 25608 parent due to a disability, as defined in Section 57-21-2, in awarding custody or
- 25609 determining whether a substantial change has occurred for the purpose of modifying
- 25610 an award of custody.
- 25611 (b) The court may not consider the disability of a parent as a factor in awarding custody
- 25612 or modifying an award of custody based on a determination of a substantial change in
- 25613 circumstances, unless the court makes specific findings that:

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- 25614 (i) the disability significantly or substantially inhibits the parent's ability to provide
25615 for the physical and emotional needs of the minor child at issue; and
- 25616 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
25617 available to supplement the parent's ability to provide for the physical and
25618 emotional needs of the minor child at issue.
- 25619 (c) Nothing in this section may be construed to apply to adoption proceedings under
25620 Title 78B, Chapter 6, Part 1, Utah Adoption Act.
- 25621 (7) This section does not establish:
- 25622 (a) a preference for either parent solely because of the gender of the parent; or
- 25623 (b) a preference for or against joint physical custody or sole physical custody, but allows
25624 the court and the family the widest discretion to choose a parenting plan that is in the
25625 best interest of the minor child.
- 25626 (8) When an issue before the court involves custodial responsibility in the event of a
25627 deployment of a parent who is a service member and the service member has not yet
25628 been notified of deployment, the court shall resolve the issue based on the standards in
25629 Sections 78B-20-306 through 78B-20-309.
- 25630 (9) In considering the past conduct and demonstrated moral standards of each party under
25631 Subsection (4)(d) or any other factor a court finds relevant, the court may not:
- 25632 (a)(i) consider or treat a parent's lawful possession or use of cannabis in a medicinal
25633 dosage form, a cannabis product in a medicinal dosage form, or a medical
25634 cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production
25635 Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid
25636 Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently
25637 than the court would consider or treat the lawful possession or use of any
25638 prescribed controlled substance; or
- 25639 (ii) discriminate against a parent because of the parent's status as a:
- 25640 (A) cannabis production establishment agent, as that term is defined in Section
25641 4-41a-102;
- 25642 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
- 25643 (C) medical cannabis courier agent, as that term is defined in Section 26B-4-201;
- 25644 or

- 25645 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2,
25646 Cannabinoid Research and Medical Cannabis; or
- 25647 (b) discriminate against a parent based upon the parent's agreement or disagreement with
25648 a minor child of the couple's:
- 25649 (i) assertion that the minor child's gender identity is different from the minor child's
25650 biological sex; or
- 25651 (ii) practice of having or expressing a different gender identity than the minor child's
25652 biological sex.
- 25653 (10)(a) The court shall consider evidence of domestic violence if evidence of domestic
25654 violence is presented.
- 25655 (b) The court shall consider as primary, the safety and well-being of the minor child and
25656 the parent who experiences domestic violence.
- 25657 (c) A court shall consider an order issued by a court in accordance with Title 78B,
25658 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or
25659 substantiated potential harm to the minor child.
- 25660 (d) If a parent relocates because of an act of domestic violence or family violence by the
25661 other parent, the court shall make specific findings and orders with regards to the
25662 application of Section 81-9-209.
- 25663 (11) Absent a showing by a preponderance of evidence of real harm or substantiated
25664 potential harm to the minor child:
- 25665 (a) it is in the best interest of the minor child to have frequent, meaningful, and
25666 continuing access to each parent following separation or divorce;
- 25667 (b) each parent is entitled to and responsible for frequent, meaningful, and continuing
25668 access with the parent's minor child consistent with the minor child's best interests;
25669 and
- 25670 (c) it is in the best interest of the minor child to have both parents actively involved in
25671 parenting the minor child.
- 25672 (12) Notwithstanding any other provision of this chapter, the court may not grant custody or
25673 parent-time of a minor child to a parent convicted of a sexual offense, as defined in
25674 Section 77-37-2, that resulted in the conception of the minor child unless:
- 25675 (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents

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25676 to custody or parent-time and the court determines it is in the best interest of the
25677 minor child to award custody or parent-time to the convicted parent; or
25678 (b) after the date of the conviction, the convicted parent and the nonconvicted parent
25679 cohabit and establish a mutual custodial environment for the minor child.

25680 (13) A denial of custody or parent-time under Subsection (12) does not:

- 25681 (a) terminate the parental rights of the parent denied parent-time or custody; or
- 25682 (b) affect the obligation of the convicted parent to financially support the minor child.

25683 Section 541. Section **81-9-208** is amended to read:

25684 **81-9-208 . Modification or termination of a custody or parent-time order --**
25685 **Noncompliance with a parent-time order.**

25686 (1) The court has continuing jurisdiction to make subsequent changes to modify:

- 25687 (a) custody of a minor child if there is a showing of a substantial and material change in
25688 circumstances since the entry of the order; and
- 25689 (b) parent-time for a minor child if there is a showing that there is a change in
25690 circumstances since the entry of the order.

25691 (2) A substantial and material change in circumstances under Subsection (1)(a) includes a
25692 showing by a parent that the other parent:

25693 (a) resides with an individual or provides an individual with access to the minor child;
25694 and

25695 (b) knows that the individual:

25696 (i) is required to register as a sex offender or a kidnap offender for an offense against
25697 a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

25698 (ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child
25699 Abuse Offender Registry; or

25700 (iii) has been convicted of:

25701 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
25702 76-5-114, or 76-5-208;

25703 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
25704 Offenses, not including Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;

25705 (C) an offense for kidnapping or human trafficking of a minor child under Title
25706 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

- 25707 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
25708 Sexual Exploitation Act; or
25709 (E) an offense that is substantially similar to an offense under Subsections
25710 (2)(b)(iii)(A) through (D).
- 25711 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if
25712 they are not the parents, the court may, after a hearing, modify or terminate an order that
25713 established joint legal custody or joint physical custody if:
- 25714 (a) the verified petition or accompanying affidavit initially alleges that admissible
25715 evidence will show that there has been a substantial and material change in the
25716 circumstances of the minor child or one or both parents or joint legal or physical
25717 custodians since the entry of the order to be modified;
- 25718 (b) a modification of the terms and conditions of the order would be an improvement for
25719 and in the best interest of the minor child; and
- 25720 (c)(i) both parents have complied in good faith with the dispute resolution procedure
25721 in accordance with Subsection 81-9-205(8); or
25722 (ii) if no dispute resolution procedure is contained in the order that established joint
25723 legal custody or joint physical custody, the court orders the parents to participate
25724 in a dispute resolution procedure in accordance with Subsection 81-9-205(13)
25725 unless the parents certify that, in good faith, they have used a dispute resolution
25726 procedure to resolve their dispute.
- 25727 (4)(a) In determining whether the best interest of a minor child will be served by either
25728 modifying or terminating the joint legal custody or joint physical custody order, the
25729 court shall, in addition to other factors the court considers relevant, consider the
25730 factors described in Sections 81-9-204 and 81-9-205.
- 25731 (b) A court order modifying or terminating an existing joint legal custody or joint
25732 physical custody order shall contain written findings that:
- 25733 (i) a substantial and material change of circumstance has occurred; and
25734 (ii) a modification of the terms and conditions of the order would be an improvement
25735 for and in the best interest of the minor child.
- 25736 (c) The court shall give substantial weight to the existing joint legal custody or joint
25737 physical custody order when the minor child is thriving, happy, and well-adjusted.

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- 25738 (5) The court shall, in every case regarding a petition for termination of a joint legal
25739 custody or joint physical custody order, consider reasonable alternatives to preserve the
25740 existing order in accordance with Section 81-9-204.
- 25741 (6) The court may modify the terms and conditions of the existing order in accordance with
25742 this chapter and may order the parents to file a parenting plan in accordance with
25743 Section 81-9-203.
- 25744 (7) A parent requesting a modification from sole custody to joint legal custody or joint
25745 physical custody or both, or any other type of shared parenting arrangement, shall file
25746 and serve a proposed parenting plan with the petition to modify in accordance with
25747 Section 81-9-203.
- 25748 (8) If an issue before the court involves custodial responsibility in the event of deployment
25749 of one or both parents who are service members, and the service member has not yet
25750 been notified of deployment, the court shall resolve the issue based on the standards in
25751 Sections 78B-20-306 through 78B-20-309.
- 25752 (9) If the court finds that an action to modify custody or parent-time is filed or answered
25753 frivolously and, in a manner, designed to harass the other party, the court shall assess
25754 attorney fees as costs against the offending party.
- 25755 (10) If a petition to modify custody or parent-time provisions of a court order is made and
25756 denied, the court shall order the petitioner to pay the reasonable attorney fees expended
25757 by the prevailing party in that action if the court determines that the petition was without
25758 merit and not asserted or defended against in good faith.
- 25759 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a
25760 visitation order by a grandparent or other member of the immediate family where a
25761 visitation or parent-time right has been previously granted by the court, the court:
- 25762 (a) may award to the prevailing party:
- 25763 (i) actual attorney fees incurred;
- 25764 (ii) the costs incurred by the prevailing party because of the other party's failure to
25765 provide or exercise court-ordered visitation or parent-time, including:
- 25766 (A) court costs;
- 25767 (B) child care expenses;
- 25768 (C) transportation expenses actually incurred;

- 25769 (D) lost wages, if ascertainable; or
- 25770 (E) counseling for a parent or a minor child if ordered or approved by the court; or
- 25771 (iii) any other appropriate equitable remedy; and
- 25772 (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up
- 25773 parent-time is not in the best interest of the minor child.
- 25774 **Section 542. Repealer.**
- 25775 This bill repeals:
- 25776 **Section 76-5b-101, Title.**
- 25777 **Section 76-9-406, Injunctive relief against privacy offenses -- Damages.**
- 25778 **Section 76-9-505, Libelous matter not privileged.**
- 25779 **Section 76-9-801, Title.**
- 25780 **Section 76-9-901, Title.**
- 25781 **Section 76-9-902, Definitions.**
- 25782 **Section 76-9-906, Protection of constitutional rights.**
- 25783 **Section 76-9-907, Training for participating law enforcement officers.**
- 25784 **Section 76-9-1001, Title.**
- 25785 **Section 76-10-404, Exemptions.**
- 25786 **Section 76-10-405, Reimbursement of government response expenses.**
- 25787 **Section 76-10-500, Uniform law.**
- 25788 **Section 76-10-512, Target concessions, shooting ranges, competitions, and hunting**
- 25789 **excepted from prohibitions.**
- 25790 **Section 76-10-521, Unlawful marking of pistol or revolver.**
- 25791 **Section 76-10-604, Violations -- Classification of offense.**
- 25792 **Section 76-10-803, "Public nuisance" defined -- Agricultural operations -- Critical**
- 25793 **infrastructure materials operations.**
- 25794 **Section 76-10-1008, Inspections by trade commission.**
- 25795 **Section 76-10-1009, Violation as unfair trade practice and unfair competition --**
- 25796 **Investigation and enforcement proceedings by trade commission.**
- 25797 **Section 76-10-1010, Action by law enforcement agencies on complaints.**
- 25798 **Section 76-10-1101.5, General culpability requirement applicable.**
- 25799 **Section 76-10-1106, Duty of prosecuting attorney or law enforcement officer to**

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- 25800 **prosecute offenses.**
- 25801 Section **76-10-1108, Seizure and disposition of gambling debts or proceeds.**
- 25802 Section **76-10-1218, Qualification for exhibition and distribution of films required.**
- 25803 Section **76-10-1221, Service of process, notice, or demand on registered agent of film**
- 25804 **distributor.**
- 25805 Section **76-10-1224, Defense to prosecution for distribution or exhibition of**
- 25806 **pornographic film -- Status as projectionist or other employee no defense.**
- 25807 Section **76-10-1225, Prosecution of pornographic film violations by county attorney,**
- 25808 **district attorney, or city attorney.**
- 25809 Section **76-10-1226, Exemptions from application of film distribution act.**
- 25810 Section **76-10-1227, Indecent public displays -- Definitions.**
- 25811 Section **76-10-1229.5, Breast feeding is not violation of this part.**
- 25812 Section **76-10-1234, Rulemaking authority.**
- 25813 Section **76-10-1308, Prosecution.**
- 25814 Section **76-10-1310, Definitions.**
- 25815 Section **76-10-1501, Short title.**
- 25816 Section **76-10-1502, Legislative findings.**
- 25817 Section **76-10-1511, Cumulative and supplemental nature of act.**
- 25818 Section **76-10-1601, Short title.**
- 25819 Section **76-10-1603.5, Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions**
- 25820 **-- Dissolution or reorganization -- Prior restraint.**
- 25821 Section **76-10-1901, Short title.**
- 25822 Section **76-10-1904, Money laundering -- Penalty.**
- 25823 Section **76-10-1907, Separate offenses.**
- 25824 Section **76-10-2001, Definitions.**
- 25825 Section **76-10-2401, Definitions.**
- 25826 Section **76-10-2702, Penalty for littering on a park, recreation area, waterway, or other**
- 25827 **public or private land.**
- 25828 Section **76-10-3003, Corporation guilty of unfair discrimination -- Action by attorney**
- 25829 **general.**
- 25830 Section **76-10-3004, Penalty for violation.**

25831 Section **76-10-3101, Title.**

25832 Section **76-10-3113, Conviction as prima facie evidence in action for injunctive relief or**
25833 **damages.**

25834 Section **76-10-3118, Interpretation of act.**

25835 Section 543. **Effective date.**

25836 This bill takes effect on May 7, 2025.